the Freeman

Ideas on Liberty

MARCH 1971

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A MONTHLY JOURNAL OF IDEAS ON LIBERTY

IRVINGTON-ON-HUDSON, N. Y. 10533 TEL.: (914) 591-7230

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THE FREEMAN is published monthly by the Foundation for Economic Education, Inc., a nonpolitical, nonprofit, educational champion of private property, the free market, the profit and loss system, and limited government.

Any interested person may receive its publications for the asking. The costs of Foundation projects and services, including THE FREEMAN, are met through voluntary donations. Total expenses average $12.00 a year per person on the mailing list. Donations are invited in any amount—$5.00 to $10,000—as the means of maintaining and extending the Foundation's work.

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Articles from this journal are abstracted and indexed in **Historical Abstracts** and/or **America: History and Life.** THE FREEMAN also is available on microfilm, Xerox University Microfilms, Ann Arbor, Michigan 48106. Permission granted to reprint any article from this issue, with appropriate credit, except "The Poor Laws of England," and "Antitrust History: The American Tobacco Case of 1911."

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The Kingdom on Earth

LEONARD E. READ

MARCH 1971 – the 25th Anniversary of The Foundation for Economic Education!

"Well, what on earth have you accomplished in a quarter century?"

That is a valid question which, alas, cannot be answered with a Victory salute. Indeed, surface appearances point to nothing but losses, the broad social practice of freedom having steadily waned through the years since FEE began. In the light of such evidence, why keep trying?

There is reason aplenty for persistent effort, not only on our part but on yours, whoever you are.

The private ownership, free exchange, limited government way of life, more stumbled upon than brought about by any precise design, has no long-range survival value except as a supporting rationality comes to the rescue.[1] This remarkable politico-economic arrangement cannot last without intellectual, moral, and spiritual underpinnings, many of which have yet to be discovered, understood, explained. In the absence of understanding, coercive collectivism – statism – spills in to occupy the vacuum. Witness what's happening!

In a sense, then, these 25 years have been a period of probing beneath our waywardness to solid foundations upon which to erect and refine a rationale that will make a free society possible.

Do our troubles stem from economic illiteracy? We thought so in the beginning. Without discount-

[1] For a development of this point, see "A Role for Rationality" in my *Let Freedom Reign* (Irvington-on-Hudson, N. Y.: The Foundation for Economic Education, 1969), pp. 9-24.

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ing the need for economic understanding, we no longer view it as the bedrock on which to build. For were everyone lacking in moral scruples, the mastery of economics would not make a whit of difference. Fundamentally, ours is a moral problem.

What Accounts for the Rises and Declines of Society?

All history attests to the rise and decline of nations, societies, civilizations. And any thoughtful person, when his own society appears to be on the wane, will try to get at the root of the matter. What is the unique strength of an emerging society or the peculiar weakness that leads toward social decline? What accentuates these ups and downs? Why this monotonous evolutionary-devolutionary sequence?

If there were a simple and obvious explanation, it long since would have been brought into the open for all to see and, hopefully, bent to our purpose.

I believe that this obscure force, or the lack of it, must be identified with the human psyche; it is a quality that develops or deteriorates in the minds of men. The cause of these ups and downs occurs within each individual. Contagious, yes, for like begets like; but this would be the only sense in which the force might be construed as social. Unquestionably, this is a personal problem.

What, then, can it be? I suggest that it has to do with the rise and decline of integrity: *the accurate reflection in word and deed of whatever one's highest conscience dictates as Truth.* Such dictates of conscience may not in fact be Truth but they are the nearest approximation possible for any human being – the closest he can ever come to The Kingdom.

What is to be inferred from "The Kingdom"? If one posits, as I do, an Infinite Consciousness, an out-of-reach Ideal – Creation – then Infinite Truth is The Kingdom. And the eternal challenge to imperfect man is that he bring himself into as much possession of Truth as he can.

The key is familiar, though rarely understood as related to the ups and downs of societies: "Seek ye first the Kingdom of God and his Righteousness, and these things will be added unto you." This admonition is being ignored and thus lies in near obscurity.

In other words, if one will first and foremost seek Truth (The Kingdom) and Righteousness (integrity), then these things – a societal rise being one of "these things" – will be the dividend. But, seek first the dividend, thereby relegating Truth and Righteousness to an inferior position,

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then the result surely will be a society in decline. In the words of C. S. Lewis, "Aim at Heaven and you get earth thrown in. Aim at earth and you will get neither."[2]

Truth Is Righteousness

Now to my point: Truth and Righteousness cannot be torn asunder without obliterating Truth; these are two sides of the same moral coin, that is, they are the inseparable components of The Kingdom on earth! To illustrate: It is a sin to feather my own nest at the expense of others. My highest conscience pronounces this as a Truth. For me to speak or write or act in a contrary manner is to indulge in dissimulation, to flout Righteousness, to live a lie, to deny the Truth that is within me.

With reference to the rise and decline of integrity, it is necessary, at the outset, to re-emphasize that whatever any individual's conscience dictates as Truth may not in fact be Truth but here, *and here alone,* reside such Truths as mankind possesses. One's highest conscience not only can but often does hold fallacies and errors to be Truths. No human being is or ever has been free from this flaw. Thus, even our most accurate reflections – integrity – pronounce fallacies and errors, perhaps more often than not.

Reflect on the millions of people who make perfectly honest pronouncements on subjects about which they know little, if anything at all. For instance, according to the tenets I hold to be Truths, Karl Marx expounded numerous errors. Yet, he was – at some points – a man of integrity and in 1848 proudly claimed this virtue for himself and his kind: "The communists disdain to conceal their views and aims." I like the young Marx for that!

And I admire integrity in everyone despite the fact that accurate reflection in word and deed projects an enormous amount of nonsense.

Consider those who speak or write or act contrary to what they believe to be Truth, those who practice dissimulation. Is nonsense thereby curbed? Indeed, it is not; it is multiplied. Were everyone to behave in this manner, Truth would have no way of coming to light – mankind confronted entirely with falsehood!

There are Truths and many are known, else we would not be here. But we must look upon man-perceived Truths as extreme rarities when compared to Infinite Truth. These rare and precious gems of Truth, like diamonds, are mined – brought to the surface – for

[2] See *Mere Christianity* by C. S. Lewis. (London: Goeffrey Bles, Ltd., 1953), p. 106.

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man's use in company with inordinate amounts of useless residue.

When integrity is the rule, fallacies and errors are brought honestly into the open, where they can be seen and discarded. Precisely as in mining, the waste is relegated to the slag pile!

"We are all dwarfs mounted upon the shoulders of giants."[3] Who are the giants, the ones on whose shoulders all of us are mounted? *Exclusively* the ones who have, over the ages, combined Righteousness with such Truths as they apprehended – men of integrity! Civilization, indeed the very existence of mankind, rests on integrity! Civilizations can rise only as that virtue is practiced and held sacred; they must decline when dissimulation is the mood and the mode.

Wrong Procedures

What of those who seek first the dividends rather than the Kingdom? What are "these things"? One need not look into the behavior of others in order to find this reversal of emphasis. I can look into the mirror and there are plenty of examples. True, some of these desires for "things" have been overcome, disciplined out of practice, but the scars remain and the memories persist as temptations. However, they must be recognized for what they are – "these things" or dividends – if I am not to yield to them.

For instance, I wish to be favorably received by a certain scholarly, affluent individual who believes in the essentially free society – except tariffs. Shall I conceal from him my belief in free exchange, thus trying to win his approbation, or shall I reveal what my conscience dictates as Truth, inviting his enmity? This is a considerable temptation. But if I were to yield, and everyone else did the same, freedom in transactions would be an unknown concept. To yield is dissimulation; not to yield is integrity.

Or, take the thesis I'm propounding here. Suppose "The Kingdom" were positively scorned by everyone else rather than simply ignored as it is today by those who proclaim that God is dead. Shall I reveal, or conceal, what my conscience dictates as Truth? One is tempted to "go along" with the crowd, rather than risk abuse and disgrace.

"I must be practical" is among the most forbidding obstacles to Righteousness. When socialism is rampant, as now, there is the temptation to weasel, to compromise or, at best, to counsel a cautious and gradual retreat, thus condoning by implication the so-

[3] Fulbert of Chartres (Eleventh Century)

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cialistic thesis. I once asked a distinguished economist why he inserted one socialistic chapter in an otherwise excellent book. He thought it would save him from excessive condemnation by the academic fraternity. There is the temptation not to stand alone with conscience; one fears being regarded as "a nut."

Fame, fortune, acclaim, popularity, and the like are "these things." And to seek them first is to risk a substitution of dissimulation for integrity. Seek Truth, then "these things" come along as the dividend.

Admittedly, this basic admonition calls for faith in something beyond the obvious. Why my faith?

Not Dangerous to Be Honest

Twenty-six years ago, I came to New York City as the Executive Vice-President of the National Industrial Conference Board. Shortly after arrival, I was invited to meet with a dozen top corporate executives, an ad hoc affair unrelated to the NICB. Following dinner, the purpose of the meeting was revealed: "We are here not to discuss the merits or demerits of the Full Employment Act; we are all opposed to it. The question is, what shall *we* do about it?" Immediately, I resolved to be a listener only. For how these men might appraise the newcomer would have much to do with my career.

For two hours I listened: "We must not reveal our position; instead, we shall hire college professors to appear before the Congressional Committee and speak our piece." And so on.

Finally, one of them asked my views. The thoughts that raced through my mind! If I tell these men what I really think, I am a goner. Not to tell them is to live a lie, to seek approval before men rather than God. *I told them!* There was dead silence, my fate seemingly sealed. Then one of them exclaimed, "Read is right!"

As it turned out, their views were presented openly to the Congress by one of them. As for me, this was among the most rewarding and instructive experiences of my life. Every one of that group welcomed me as a friend, often seeking my counsel. Why? Each felt certain that I would tell him the truth as I saw it.

Experience tells me it is *not* dangerous to be honest, to practice integrity. Indeed, accurate reflection of what one believes to be Truth engenders respect, trust, friendliness – assuming, of course, that one is not argumentative, abusive, cantankerous. And why should one be? I have no call to compel anyone to accept my views; my moral obligation is to express

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my thoughts honestly for whatever others may wish to make of them.

Truth for Its Own Sake

While it is true that integrity breeds respect, trust, friendliness, and other desiderata, it is well to keep in mind that these are only dividends. Therefore, it is not for these that one is righteous but for Truth's sake, and that alone. It is simply a matter of getting the priorities in proper order.

Finally, the individual who practices integrity is teachable for, by definition, he is a Truth seeker. The dissimulator, on the other hand is, at best, no more than a dividend seeker. He has torn Truth and Righteousness apart and, thus, has alienated himself from such Truth as is within him. Until he reverses the priorities, he is not educable.

As one reflects on this subject, it becomes obvious that when dissimulation is widespread, as it seems to be now, nations, societies, civilizations suffer decline. To reverse the direction requires only that integrity become the way, the mode, the style. Then Truth will out – not all at once, never fully to any man or any generation or even during any century, but bit by bit to those who persist in the eternal search.

IDEAS ON LIBERTY

To Reverse the Direction

ONE FREE MAN says frankly what he thinks and feels in the midst of thousands who by their actions and words maintain just the opposite. It might be supposed that the man who has frankly expressed his thought would remain isolated, yet in most cases it happens that all, or the majority, of the others have long thought and felt the same as he, only they have not expressed it. And what yesterday was the novel opinion of one man becomes to-day the general opinion of the majority. And as soon as this opinion is established, at once by imperceptible degrees but irresistibly, the conduct of mankind begins to alter.

LEO TOLSTOY, from the essay,
"Patriotism and Christianity" (1894)

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HENRY HAZLITT

(Bettmann Archive)

The Poor Laws of England

ONE WOULD GET the impression, reading most of the discussions in today's American newspapers and magazines, that no one had ever thought of doing anything for the poor until Franklin Roosevelt's New Deal in the 1930's, or even until President Johnson's "war on poverty" in the 1960's. Yet private charity is as old as mankind; and the history of governmental poor relief, even if we ignore the ancient world, can be traced back more than four centuries.

In England the first poor law was enacted in 1536. In 1547 the city of London levied compulsory taxes for the support of the poor. In 1572, under Elizabeth, a compulsory rate was imposed on a national scale. In 1576 the compulsion was imposed on local authorities to provide raw materials to give work to the unemployed. The Statute of 1601 compelled the Overseers of the Poor in every parish to buy "a convenient stock of flax, hemp, wool, thread, iron and other stuff to set the poor to work."

It was not compassion alone, or perhaps even mainly, that led to these enactments. During the reign of Henry VIII, bands of "sturdy beggars" were robbing and terrorizing the countryside, and it was hoped that the relief or the provision of work would mitigate this evil.

Poor relief, once started, kept growing. According to the early statistician, Gregory King (1648-1712), toward the end of the sev-

Henry Hazlitt is well-known to FREEMAN readers as author, columnist, editor, lecturer, and practitioner of freedom. This article will appear as a chapter in a forthcoming book, *The Conquest of Poverty*, to be published by Arlington House.

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enteenth century over one million persons, nearly a fifth of the whole English nation, were in occasional receipt of alms, mostly in the form of public relief paid by the parish. The poor rate was a charge of nearly £800,000 a year on the country and rose to a million in the reign of Anne.

"There was seldom any shame felt in receiving outdoor relief, and it was said to be given with a mischievous profusion. Richard Dunning declared that in 1698 the parish dole was often three times as much as a common laborer, having to maintain a wife and three children, could afford to expend upon himself; and that persons once receiving outdoor relief refuse ever to work, and 'seldom drink other than the strongest alehouse beer, or eat any bread save what is made of the finest wheat flour.' The statement must be received with caution, but such was the nature of the complaint of some rate-payers and employers about the poor law."[1]

Guaranteed Income

In 1795 a momentous step was taken that enormously aggravated the whole relief problem. The justices of Berkshire, meeting at Speenhamland, decided that wages below what they considered an absolute minimum should be supplemented by the parish in accordance with the price of bread and the number of dependents a man had. Their decision received parliamentary confirmation the next year. In the succeeding 35 years this system (apparently the first "guaranteed minimum income") brought a train of evils.

The most obvious to the taxpayers was a geometric rise in the cost of relief. In 1785 the total cost of poor law administration was a little less than £2 million; by 1803 it had increased to a little more than £4 million; and by 1817 it had reached almost £8 million. This final figure was about one-sixth of total public expenditure. Some parishes were particularly hard hit. One Buckinghamshire village reported in 1832 that its expenditure on poor relief was eight times what it had been in 1795 and more than the rental of the whole parish had been in that year.[2] One village, Cholesbury, became bankrupt altogether, and others were within measurable distance of it.

But even the public expense was not the worst of the evil. Much greater was the increasing demoralization of labor, culminating in the riots and fires of 1830 and 1831.

[1] G. M. Trevelyan, *English Social History* (David McKay, 1942), p. 278.

[2] *Encyclopaedia Britannica*, 1965. Article, "Poor Law." Vol. 18, p. 218.

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It was in the face of this situation that the Whig government decided to intervene. In 1832 a royal commission was appointed to inquire into the whole system. It sat for two years. The report and recommendations it brought in became the basis of the reforms adopted in Parliament by a heavy majority (319 to 20 on the second reading) and embodied in the Poor Law Amendment Act of 1834.

The report was signed by the nine commissioners. The secretary was Edwin Chadwick; one of the commissioners was the eminent economist, Nassau W. Senior. The text of the report itself ran to 362 pages; together with its appendices it came to several bulky volumes. It was widely regarded as a "masterly example of a thorough, comprehensive, and unbiased inquiry." As late as 1906, one British writer, W. A. Bailward, described it as a "Blue-book which, as a study of social conditions, has become a classic."[3]

Repeating Ancient Errors

But today the report is just as if it had never existed. Schemes are being proposed on all sides, which their sponsors assume to be brilliantly original, but which would restore the very relief and income-guarantee systems that failed so miserably in the late eighteenth and early nineteenth centuries, and which the report of 1834 so devastatingly analyzed.

The Speenhamland plan, and schemes like it, endeavored to insure that people were paid, not in accordance with the going rate of wages, or the market value of their services, but in accordance with their "needs," based on the size of their families. A married man was paid more than a single man, and paid still more on a scale upward in accordance with the number of his children. The government – i.e., the taxpayers – paid the difference between his market rate of wages and this scale of minimums.

One effect, of course, was to depress the market rate of wages, because the employer found he could reduce the wages he offered and let the taxpayers make up the deficiency. It made no difference to the worker himself who paid him how much of the fixed total that he got. Another effect was to demoralize the efficiency of labor, because a man was paid in accordance with the size of his family and not in accordance with the worth of his efforts. The average unskilled laborer had nothing to gain by improving his efforts and efficiency, and nothing to lose by relaxing them.

[3] J. St. Loe Strachey (ed.), *The Manufacture of Paupers* (London: John Murray, 1907), p. 108.

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Conditions in 1834

But let us turn to the text of the Commission's report, and let the following excerpts speak for themselves. They are taken almost at random:

"The laborer under the existing system need not bestir himself to seek work; he need not study to please his master; he need not put any restraint upon his temper; he need not ask relief as a favor. He has all a slave's security for subsistence, without his liability to punishment. As a single man, indeed, his income does not exceed a bare subsistence; but he has only to marry, and it increases. Even then it is unequal to the support of a family; but it rises on the birth of each child. If his family is numerous, the parish becomes his principal paymaster; but small as the usual allowance of 2*s*. a head may be, yet when there are more than three children, it generally exceeds the average wages given in a pauperized district. A man with a wife and six children, entitled, according to the scale, to have his wages made up to 16*s*. a week, in a parish where the wages paid by individuals do not exceed 10*s*. or 12*s*., is almost an irresponsible being. All the other classes of society are exposed to the vicissitudes of hope and fear; he alone has nothing to lose or to gain. . . .

"The answer given by the magistrates, when a man's conduct is urged by the overseer against his relief, is: 'We cannot help that; his wife and family are not to suffer because the man has done wrong.' . . .

"Too frequently petty thieving, drunkenness, or impertinence to a master, throw able-bodied laborers, perhaps with large families, on the parish funds, when relief is demanded as a right, and if refused, enforced by a magistrate's order, without reference to the cause which produced his distress, viz., his own misconduct, which remains as a barrier to his obtaining any fresh situation, and leaves him a dead weight upon the honesty and industry of his parish. . . .

"It appears to the pauper that the government has undertaken to repeal, in his favor, the ordinary laws of nature; to enact that the children shall not suffer from the misconduct of their parents — the wife for that of the husband, or the husband for that of the wife: that no one shall lose the means of comfortable subsistence, whatever be his indolence, prodigality, or vice: in short, that the penalty which, after all, must be paid by some one for idleness and improvidence, is to fall, not on the guilty person or on his family, but on the proprietors of the lands and houses encumbered by his settlement. . . .

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" 'In the rape of Hastings,' says Mr. Majendie, 'the assistant overseers are reluctant to make complaints for neglect of work, lest they should become marked men and their lives rendered uncomfortable or even unsafe. Farmers permit their laborers to receive relief, founded on a calculation of a rate of wages lower than that actually paid: they are unwilling to put themselves in collision with the laborers, and will not give an account of earnings, or if they do, beg that their names not be mentioned. . . . Farmers are afraid to express their opinions against a pauper who applies for relief, for fear their premises should be set fire to. . . .

" 'In Brede, the rates continue at an enormous amount. The overseer says much of the relief is altogether unnecessary; but he is convinced that if an abatement was attempted, his life would not be safe.' . . . 'I found in Cambridgeshire,' says Mr. Power, 'that the apprehension of this dreadful and easily perpetrated mischief [fire] has very generally affected the minds of the rural parish officers of this country, making the power of the paupers over the funds provided for their relief almost absolute, as regards any discretion on the part of the overseer.' . . .

"Mr. Thorn, assistant overseer of the parish of Saint Giles, Cripplegate, London, says —

" 'The out-door relief [i. e., relief given outside of a poorhouse] in the city of London would require almost one man to look after every half dozen of able-bodied men, and then he would only succeed imperfectly in preventing fraud. They cheat us on all hands. . . .

" 'By far the greater proportion of our new paupers are persons brought upon the parish by habits of intemperance. . . . After relief has been received at our board, a great portion of them proceed with the money to the palaces of gin-shops, which abound in the neighborhood. However diligent an assistant overseer, or an officer for inquiry, may be, there are numerous cases which will baffle his utmost diligence and sagacity. . . .

" 'It is the study of bad paupers to deceive you all they can, and as they study their own cases more than any inquirer can study each of the whole mass of different cases which he has to inquire into, they are sure to be successful in a great many instances. The only protection for the parish is to make the parish the hardest taskmaster and the worst paymaster than can be applied to.' "

To economize space, my remaining quotations from the Commissioners' criticisms of the condi-

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tions they found must be few and brief.

In many parishes, "the pressure of the poor-rate [i. e., taxes on property] has reduced the rent to half, or to less than half, of what it would have been if the land had been situated in an unpauperized district, and some in which it has been impossible for the owner to find a tenant. . . ."

"Says Mr. Cowell: 'The acquaintance I had with the practical operation of the Poor Laws led me to suppose that the pressure of the sum annually raised upon the ratepayers, and its progressive increase, constituted the main inconvenience of the Poor Law system. The experience of a few weeks served to convince me that this evil, however great, sinks into insignificance when compared with the dreadful effects which the system produces on the morals and happiness of the lower orders....'"

The relief system was found to encourage "bastardy." "To the woman, a single illegitimate child is seldom any expense, and two or three are a source of positive profit. . . . The money she receives is more than sufficient to repay her for the loss her misconduct has occasioned her, and it really becomes a source of emolument. . . .

"The sum allowed to the mother of a bastard is generally greater than that given to the mother of a legitimate child; indeed the whole treatment of the former is a direct encouragement to vice. . . .

"Witness mentioned a case within his own personal cognizance, of a young woman of four-and-twenty, with four bastard children; she is receiving 1*s.* 6*d.* weekly for each of them. She told him herself, that *if she had one more she should be very comfortable.* Witness added, 'They don't in reality keep the children; they let them run wild, and enjoy themselves with the money.'"

Much Like Today

Given a modernization of phraseology and an appropriate change in the monetary amounts mentioned, this description of relief conditions and consequences in the early years of the nineteenth century could easily pass as a description of such conditions in, say, New York City in 1971.

What, then, in the face of these results of the prior Poor Law, were the recommendations of the commission? It desired to assure "that no one need perish from want"; but at the same time it suggested imposing conditions to prevent the abuse of this assurance.

"It may be assumed, that in the administration of relief, the public is warranted in imposing such conditions on the individual re-

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lieved as are conducive to the benefit either of the individual himself, or of the country at large, at whose expense he is to be relieved.

"The first and most essential of all conditions . . . is that his situation on the whole shall not be made really or apparently so eligible [i. e., attractive] as the situation of the independent laborer of the lowest class. Throughout the evidence it is shown, that in proportion as the condition of any pauper class is elevated above the condition of independent laborers, the condition of the independent class is depressed; their industry is impaired, their employment becomes unsteady, and its remuneration in wages is diminished. Such persons, therefore, are under the strongest inducements to quit the less eligible class of laborers and enter the more eligible class of paupers. . . . Every penny bestowed, that tends to render the condition of the pauper more eligible than that of the independent laborer, is a bounty on indolence and vice. . . .

"We do not believe that a country in which . . . every man, whatever his conduct or his character [is] ensured a *comfortable* subsistence, can retain its prosperity, or even its civilization.

"The main principle of a good Poor-Law administration [is] the restoration of the pauper to a position below that of the independent laborer."

The report then followed with its detailed recommendations, which involve many administrative complexities.

The Workhouse System

In 1841, seven years after the enactment of the new Poor Law, when a whole series of amendments were being proposed to it by various members of Parliament, Nassau Senior, in an anonymous pamphlet signed merely "A Guardian," came to the defense of the original act, and explained its rationale perhaps in some ways better than did the original report.

"In the first place," he wrote, "it was necessary to get rid of the allowance system – the system under which relief and wages were blended into one sum, the laborer was left without motive to industry, frugality, or good conduct, and the employer was forced, by the competition of those around him, to reduce the wages which came exclusively from his own pocket, and increase the allowance to which his neighbors contributed.

"Supposing this deep and widely extended evil to be extirpated, and the poorer classes to be divided into two marked portions – independent laborers supported by wages and paupers supported by

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relief – there appeared to be only three modes by which the situation of the pauper could be rendered the less attractive.

"First, by giving to the pauper an inferior supply of the necessaries of life, by giving him worse food, worse clothing, and worse lodging than he could have obtained from the average wages of his labor. . . .

"A second mode is to require from the applicant for relief, toil more severe or more irksome than that endured by the independent laborer. . . .

"The third mode is, to a certain degree, a combination of the two others, avoiding their defects. It is to require the man who demands to be supported by the industry and frugality of others to enter an abode provided for him by the public, where all the necessaries of life are amply provided, but excitement and mere amusement are excluded – an abode where he is better lodged, better clothed, and more healthily fed than he would be in his own cottage, but is deprived of beer, tobacco, and spirits – is forced to submit to habits of order and cleanliness – is separated from his usual associates and his usual pastimes, and is subject to labor, monotonous and uninteresting. This is the workhouse system."

The Royal Commission, in defending that system, had argued that even if "relief in a well-regulated workhouse" might be, "in some rare cases, a hardship, it appears from the evidence that it is a hardship to which the good of society requires the applicant to submit. The express or implied ground of his application is, that he is in danger of perishing from want. Requesting to be rescued from that danger out of the property of others, he must accept assistance on the terms, whatever they may be, which the common welfare requires. The bane of all pauper legislation has been the legislation for extreme cases. Every exception, every violation of the general rule to meet a real case of unusual hardship, lets in a whole class of fraudulent cases, by which that rule must in time be destroyed. Where cases of real hardship occur, the remedy must be applied by individual charity, a virtue for which no system of compulsory relief can be or ought to be a substitute."

Destroying the Beneficiary

To later generations the reforms introduced by the Poor Law Amendments of 1834 came to seem needlessly harsh and even heartless. But the Poor Law Commissioners did courageously try to face up to a two-sided problem that the generation before them

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had ignored and many of the present generation seem once more to ignore – "the difficult problem" as Nassau Senior put it, "how to afford to the poorer classes adequate relief without material injury to their diligence or their providence." In his 1841 pamphlet we find him rebuking "the persons who would legislate for extreme cases – who would rather encourage any amount of debauchery, idleness, improvidence, or imposture, than suffer a single applicant to be relieved in a manner which they think harsh. . . . [They] would reward the laborer for throwing himself out of work, by giving him food better, and more abundant, than he obtained in independence. . . . They are governed by what they call their feelings, and those feelings are all on one side. Their pity for the pauper excludes any for the laborer, or for the rate-payer. They sympathize with idleness and improvidence, not with industry, frugality, and independence. . . . It is scarcely necessary to remind the reader of the well-known principle, that if relief be afforded on terms which do not render it less eligible than independent labor, the demand for it will increase, while there is a particle of property left to appease it."

However the Poor Law reform of 1834 may be considered by many today, it proved sufficiently satisfactory to successive British governments to be retained with only minor changes until the end of the nineteenth century. But there was mounting sentiment against it as the years wore on. Much of this was stirred up by the novels of Charles Dickens and others, with their lurid pictures of conditions in the workhouses. Toward the end of the century the more stringent regulations were gradually relaxed. In 1891 supplies of toys and books were permitted in the workhouses. In 1892 tobacco and snuff could be provided. In 1900 a government circular recommended the grant of outdoor relief (i. e., relief outside of the workhouses) for the aged of good character.

A 1905 War on Poverty

A new Royal Commission on the Poor Laws was set up in 1905. (One member was Beatrice Webb.) It brought in a report in 1909, but as the report was not unanimous, the Government took no action on it. However, new "social legislation" continued to be enacted. An Old Age Pensions Act was passed in 1908. And in 1909 David Lloyd George, the radical chancellor of the exchequer, anticipating President Lyndon Johnson's "war on poverty" by more than half a century, exclaimed in

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introducing his new budget: "This is a war budget for raising money to wage implacable warfare against poverty and squalidness."

Finally, the National Insurance Act of 1911, providing sickness and unemployment benefits on a contributory basis to a selected group of industrial workers, marked the birth of the modern Welfare State in England, which reached maturity with the enactment of the Beveridge reforms in 1944.

But the Poor Law Commissioners of 1834, and the Parliament that enacted their recommendations, had frankly recognized and faced a problem that their political successors seem, as I have said, almost systematically to ignore – "the difficult problem," to quote once more the words in which Nassau Senior stated it, "how to afford to the poorer classes adequate relief without material injury to their diligence or their providence."

How to Afford Relief Without Destroying Incentives

Is this problem soluble? Or does it present an inescapable dilemma? Can the state undertake to provide adequate relief to everybody who really needs and deserves it without finding itself supporting the idle, the improvident, and the swindlers? And can it frame rigid rules that would adequately protect it against fraud and imposture without as a result denying help to some of those really in need? Can the state, again, provide really "adequate" relief for any extended period even to the originally "deserving" without undermining or destroying their incentives to industry, frugality, and self-support? If people can get an adequate living without working, why work? Can the state, finally, provide "adequate" relief to all the unemployed, or, even more, guaranteed incomes for all, without undermining by excessive taxation the incentives of the working population that is forced to provide this support? Can the state, in sum, provide "adequate" relief to all without gravely discouraging and inhibiting the production out of which all relief must come? – without letting loose a runaway inflation? – without going bankrupt?

This apparent dilemma may be surmountable. But no relief system or welfare-state system so far embarked upon has satisfactorily surmounted it; and the problem certainly cannot be solved until the alternatives it presents are candidly recognized and examined.

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HANS F. SENNHOLZ

RADICAL ECONOMICS OLD AND NEW

MOST modern economists openly profess disinterest in ideological and political matters. They go about their studies, proclaiming ethical neutrality and freedom from bias, to specialize in a great many details of economic phenomena. The profession is more and more divided into groups specializing in diverse kinds of research so that few members are able to understand the whole field or relate to it the work done in these specialties. The writing of comprehensive treatises on "principles of economics" has virtually ceased and few students are ever introduced to the eternal principles of human action.

Yet, these same economists who claim the scientific dignity of ethical neutrality readily pass judgment on social and political affairs. In fact, they are busily undermining the classical economics that believed in the harmony of interests and social beneficence of the competitive private-property economy. Espousing the theory of "monopolistic competition," they condemn the structure and working of the market system and the power of private firms which are said to administer their outputs and selling prices and fix their payments to labor. The main body of the profession embraces "Keynesian" doctrines and theories, which have dealt a severe blow to the economics of individual enterprise and promoted radical government intervention. Keynesians are convinced that the market economy fails to attain and maintain an appropriate flow of money through the system, or "effective demand" for all products, that it lacks over-all stability or steady growth. The system's grave liability, they proclaim, is its failure to automatically correct its own mal-

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adjustments which occur as depressions and inflations.

These modern developments of economic theory contributed to the growth of new attitudes among the electorate and clamor for new public policies. Hence, the ideological and political trends toward new-style liberalism and control-type socialism. And above all, a new radicalism bubbles through the profession.

The old radicalism consisted of a few Marxian professors who had the rare courage to openly confess allegiance to the concepts and doctrines of their master. But while there are few professed Marxians in the American economic profession, a great deal of Marxism has swayed the thinking of countless economists. Marxian surplus value theory, commonly called "exploitation theory," has been widely accepted in economic thought, in American legislation and labor policy. The Marxian theory of capital concentration and business monopoly is embraced by most Americans and is used as a guidepost by the Department of Justice in its antitrust activities. Finally, Lenin's doctrine of capitalist colonialism and imperialism is widely accepted as the explanation of foreign affairs, causing our government to help purge European colonialism from all corners of the world.

The new radicalism represented by an organization of younger economists in the Union for Radical Political Economics, with counterparts in most other social sciences, demands drastic domestic reforms and an end to the war in Vietnam.

The private-property-individual-enterprise order is summarily condemned in terms of Marxian analysis. In addition, it is criticized for its tendency to create such problems as inflation, urban decay, pollution, racial conflict, and many other ills of contemporary society.

Even economists schooled in the classical tradition are joining the chorus of vocal critics. The private enterprise system, they contend, does not lead to maximum welfare because many social costs are ignored in the calculation of welfare. Large blocs of *externalities*, which are social costs not included in private costs, are characteristic of the enterprise system. These externalities are destroying our physical environment and precipitating disaster for the human race.

Robert U. Ayres and Allen V. Kneese make such charges in an essay on "Production, Consumption and Externalities." (*American Economic Review*, June, 1969, pp. 282-297). Private businessmen are discharging wastes into the atmosphere and water courses

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without cost to themselves. And consumers do not fully use up, through the act of economic consumption, the material elements that enter production. Almost 3 billion tons of residue are going back annually into our environment. This is becoming unbearable, especially in mass urban societies with growing populations and rising material output. Ad hoc taxes and government restrictions are not sufficient to cope with the growing problem. Central, or at least regional, control is needed; and above all, a new economics must be devised that considers waste disposal an integral part of the production and consumption process, and places it within the framework of general equilibrium analysis. "Under conditions of intensive economic and population development the environmental media which can receive and assimilate residual wastes are not free goods but natural resources of great value with respect to which voluntary exchange cannot operate because of their common property characteristics."

Such observations reflect an unbounded faith in the political and bureaucratic process. No matter what the grievance may be, the blame is always laid on private property and individual enterprise, and the solution is always more government!

Who is Polluting?

Even some of the facts are grossly misstated. The worst offenders are not private businessmen in their search for profits, but government itself rendering economic services in a primitive manner. Urban communities are polluted by an increasingly formidable cascade of solid waste, such as garbage and trash, rubbish and debris. According to a preliminary report made in 1968 by the Bureau of Solid Waste Management in the U. S. Public Health Service, only 64 per cent of the nation's people lived in communities that had refuse collection systems. About half of household wastes were collected by public agencies, and one-third by private collectors; the rest was disposed by householders themselves. Most commercial and industrial wastes were handled by private collectors. And most of the dumps and incinerators were operated by public authorities or licensed contractors working for public authorities.

These facts primarily indict government rather than profit-seeking enterprise for our environmental crisis.

Or take the pollution of our waterways. Who is discharging pollutants into streams and rivers, lakes and oceans? Lake Erie, the most polluted inland body of water, is an example. According to

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independent surveys, the city of Cleveland is by far the worst offender, followed by Toledo and Buffalo and other cities. Numerous public sewer authorities discharge thousands of tons of waste into the lake every day. So filthy is Cleveland's Cuyahoga River that it catches fire occasionally and traps tugs and boats in its flames. Surely, Lake Erie would suffer no serious pollution were it not for sewer authorities established and operated by government.

Under common law, the beds of navigable bodies of water are government property. Can it be surprising then that government itself either is polluting the lakes and rivers or permits them to be polluted? To blame individual enterprise is an obvious distortion of facts.

It is true, public attitude toward government property usually differs from that toward private property. While the latter is generally respected and the owner protected in its use, government property is treated as a common good without an owner. Unless it is guarded by a host of inspectors and policemen, it is used and abused by the citizenry as if it were free. This common attitude can hardly be construed as recommendation for more government ownership or control over environmental resources.

The Air We Breathe

The third pollution that is often laid on the doorstep of profit-seeking enterprise is the contamination of the air we breathe. In a stinging criticism of the "conventional wisdom" of economics, E. J. Mishan of the London School of Economics and Political Science called the private automobile one of the great disasters of the human race. It pollutes the air, clogs city streets, and contributes to the destruction of natural beauty. The economic growth it represents conflicts with social welfare. ("Economic Priority: Growth or Welfare" in *Political Quarterly*, January, 1969).

Such a severe indictment of the automobile is tantamount to a rejection of one of the most splendid fruits of private enterprise. There are few, if any, private automobiles in collective economies, from Soviet Russia to Castro Cuba. The automobile means high standards of living, great individual mobility and productivity, and access to the countryside for recreation and enjoyment. In rural America it is the only means of transportation that assures employment and income. Without it, the countryside would surely be depopulated and our cities far more congested than now.

The air pollution in our cities, the smoke, haze, and smog, never-

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theless present grave health hazards to millions of city dwellers. Is individual enterprise that manufactured those millions of automobiles not responsible for most of the city pollution?

Zoning and Other Intervention

Again, the blame for the intolerable pollution of city air rests mainly with government. In particular, three well-established political practices have contributed to the environmental dilemma. First, zoning has become a popular legislative method of government control over the use of land. Primarily applied in urban areas, zoning constitutes government planning along "orderly lines," to control congestion in houses and neighborhoods, height, size and appearance of buildings and their uses, density of population, and so on. Surely, zoning has shaped the growth of American cities ever since the 1920's when it became popular.

Take Los Angeles, for instance. Radical zoning ordinances made it the largest U.S. city in area, a vast sprawling metropolis of more than 455 square miles in which transportation is an absolute necessity. The resident of Los Angeles may travel a hundred miles every day to work, shop, eat, to attend school or church, or to seek recreation or entertainment. Public transportation cannot possibly meet the millionfold needs of Los Angeles transportation; only the private automobile can.

Secondly, in nearly all American cities public transportation has deteriorated to disgraceful levels of inefficiency and discomfort. The private companies that first provided the service were regulated and taxed into losses, and finally replaced by public authorities. Under their control, mass transportation has generally deteriorated in quality and quantity while the costs have soared, as in the New York City subways, for example.

Public transport authorities are easy prey for militant unions. Politicians or their appointees cannot easily resist the demands of teamsters locals and their allies, despite the resultant inefficiency and high cost. The traveling public is frequently left stranded by organized work stoppages, slowdowns, and other union tactics. When public transportation is most urgently needed, in the vacation or holiday season, it is often struck by one of the unions.

The privately-owned mass transportation media are taxed by a host of government authorities until their services deteriorate or even sputter to a halt. The examples are legion. But the recent bankruptcy of the Penn Central

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Railroad illustrates the point. Even in bankruptcy, public tax authorities are crowding the courts to force collection of their levies. While labor unions threaten nationwide walkouts, government tax collectors prey on railroad income and assets. And when a company finally petitions its regulatory authority to halt some loss-inflicting service, it may be denied the right to do so. If permission is granted, local courts may order the company to continue the service and bear the losses. Can it be surprising, then, that service reluctantly rendered is minimal and poor?

When public transportation is dismal, undependable and inefficient, neglected and uncomfortable, primitive and costly, people naturally provide their own transportation. And millions of private automobiles are clogging the city streets adding their exhaust fumes to the city air.

Finally, there is the tendency to treat road and highway investments, no matter how huge, as "free goods" that are available to anyone without charge. City governments endeavor to provide adequate approach roads for unrestricted use of the automobile, continually constructing new expressways on the city's fringes. It is true, a great number of highway taxes are levied on those who use the highways. The Federal government collects taxes on gasoline, lubricating oil, new automobiles, tires and tubes. A highway trust fund established by the Highway Revenue Act of 1956 receives and expends the excise taxes, which are the sole source of funds for the Federal aid highway systems. But as soon as an expressway is completed it is overcrowded with countless automobiles speeding or crawling to the city. No matter how many millions of dollars were expended on its construction, it is "free" to the user who simply does not relate the tax on his gasoline or tire to a particular trip to the city. But even if he were mindful of the tax costs to him, the use value of the expressway, its convenience, speed and safety, may exceed by far the tax cost. Thus, millions of suburban automobiles are rushing to or from the cities on billion-dollar highways, adding their exhaust fumes to our environment dilemma.

Ignoring Property Rights

The problems of smoke, soot, noise, waste, and water pollution reveal unfortunate legal deficiencies in the protection of private property. The law has always been and continues to be inadequate in its treatment of property rights, in particular, the liability and in-

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demnification for damages caused by the owner's use of property. Ideally, the right of property as a market phenomenon entitles the owner to all the advantages of a given good, and charges him with all the disadvantages which the good may entail.

Over the centuries governments have again and again restricted or even abolished the rights of private property. At other times the law, either by design or default, shielded the owner from some disadvantages of his property, and charged other people with some of the costs, the external costs. Obviously, if an owner does not reap all the benefits of his property, he will disregard such benefits in his actions; and if he is not charged with all its costs, he will ignore such costs.

During the nineteenth century, legislation and adjudication reflected enthusiasm for the rapid industrial and commercial development. Legislators and judges understood the great importance of capital investment for economic betterment. They favored investments in industry and transportation and the productive employment of property. Unfortunately, they decided to hasten the economic development through tariffs, subsidies, land grants, and relief from some external costs. Thus, as the tariffs and subsidies encouraged some production, so did the relief from externalities. Some investments were made and some consumption took place just because part of the costs was shifted from the owners to other people and their property. The pollution of air and water was overlooked as a "public price" for economic progress, that is, some costs were shifted from one owner to another to encourage economic activity favored by government.

The growing awareness of environmental problems is laudable indeed. But the explanations given by "experts" today are taken straight from the armory of political and economic radicalism. The private property order is summarily condemned, and government is hailed as the only saviour from our self-destruction. More taxes and regulations, or better yet, comprehensive government planning and control, are to correct a deplorable situation. In reality, the no-man's-land of "public property" and government manipulation of private property constitute the pollution problem. Only sincere respect for private property and its unbiased protection by the law can alleviate a deplorable situation.

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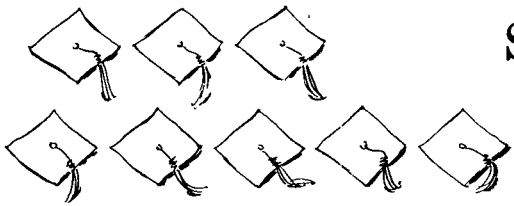

SUBSIDIZING A CRISIS:

The shocked surprise in the spring of 1970, when the graduating class suddenly found out that they had to go out and look for jobs, may thus have been the first sign of a typical "inventory crisis" – which always takes everybody by surprise. Whatever the economic climate, the next few years will be years of sharp readjustment in the "careers market." The "career" boom of the 1960's is as much a thing of the past as the stock market boom in "takeovers," "conglomerates," and "growth ventures."

PETER F. DRUCKER

The Public Interest (Fall, 1970)

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GARY NORTH

THE TEACHER GLUT, 1971

ADVOCATES of the free market as a tool for the efficient allocation of scarce resources have long been critical of the way in which education is financed in the United States. A host of studies are available that deal with the lowering of quality, the uncreative uniformity, and the spiraling costs of public education.[1] Only in recent months have communities even contemplated the possibility of a system like Milton Friedman's voucher program, in which the parent would receive the educational subsidy rather than the local public school.[2] The obvious crises since 1965 in our public schools, coupled with the realization on the part of black militants that educational pluralism is advantageous, have led to at least some rethinking of the assumptions of American public education. With the realization that education is not neutral, some former advocates of racial, intellectual, and cultural integration have come to the conclusion that "democratic education" has pro-

[1] Cf. Benjamin A. Rogge, "Financing Higher Education in the United States," *New Individualist Review*, IV (Summer, 1965); available also from the Center for Independent Education, Wichita. E. G. West, *Education and the State* (London: Institute for Economic Affairs, 1967). Roger A. Freeman, "Crisis in American Education," *Christian Economics* (Sept., 1970).

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[2] Milton Friedman, *Capitalism and Freedom* (University of Chicago Press, 1962), ch. 6; Robert L. Cunningham, "Education: Free and Public," *New Individualist Review*, III (Summer, 1963). Governor Reagan of California mentioned the possibility of instituting a voucher system as an experiment; this, however, was in a campaign speech. The Center for the Study of Public Policy, located in Cambridge, Mass., has recommended the establishment of a 5-8 year experiment of 12,000 elementary students; the plan would cost $6-8 million. This was the conclusion in the Office of Economic Opportunity-financed study, *Education Vouchers*.

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duced a generation of uprooted graduates – drones and revolutionaries – who are not really very different from Dustin Hoffman's caricature.

This realization, however, has been a distinctly minority revelation. The message has not come to the institutions of higher learning in this country. They have gone on as before, tinkering occasionally with the curriculum, adding a handful of courses like Black Studies or Chicano Studies, but generally proceeding in a "business as usual" fashion. Nevertheless, the violation of supply and demand that is fundamental in any system of subsidized education has now resulted in something wholly unforeseen by the bulk of American educators: the perennial shortage of teachers came to an end, quite abruptly, in 1968. The shock waves of that event are only now registering on the bureaucratic structure of American higher education.

The Glut of the Degree Holders

For how many years were Americans subjected to the perpetual hand-wringing of professional educators over the teacher shortage? How many news releases from the National Education Association were printed, without any criticism, by the public news media? It was one of the favorite themes of nearly everyone associated in any way with public educational institutions. Yet the myth was shattered in one academic year, 1968-69.[3] The glut of teachers at all levels, from kindergarten to the graduate school, appeared almost overnight. The teacher-job "gap" simply was swallowed up in the outpouring of graduates in June of 1968; only in "special education" – the euphemism for the handicapped, the culturally deprived, and the retarded – is there a comparable gap, and the openings there are being depleted by falling school revenues.

This glut is not strictly an American phenomenon. It is as serious in the British Isles, perhaps worse. The British teaching certificate is just that, a license to teach; it is not easily transferred to any other occupation. The English have overbuilt their institutions of higher education, and the graduates are now reaping the whirlwind.

Previously sacrosanct fields like physics are now oversupplied. The post-Sputnik era saw a seemingly endless barrage of propaganda in favor of expanding our pool of available scientific talent. The

[3] *Newsweek* (June 29, 1970) reports that the first year in which a surplus existed was 1967-68. This was not manifest at the time, however; it took a year for the glut to register as a permanent phenomenon.

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"science fairs" in the high schools, the Federal scholarships, the televised miracles of space travel all combined to convince American students that the ticket to guaranteed security was the engineering degree and the Ph.D. in physics. Easy Street has once again turned into a dead end, as too many people crowded down its narrow path. Federal grants from such agencies as NASA have fallen dramatically; Federal loans to students have begun to dry up. Budget cutting has removed the fat from many Federal science programs, to the dismay of those scientists who have an ideological commitment to state-financed research.[4]

The extent of the glut in physics can be seen through a very specific case. Heidelberg College in Ohio last year had an opening for a teacher in physics. It received a total of 361 applications. Tiny Dayton High School, in Dayton, Texas, received applications from 15 Ph.D.'s in physics, yet the school has only 455 students, and it offers only a single course.[5] Industry has been less and less willing to interview Ph.D.'s due to the highly specialized, unflexible nature of Ph.D. training. The cut-backs in aerospace have hurt the market for these trained specialists. An astounding 40 per cent of the 1969 graduates in physics were on post-doctoral fellowships in 1970.[6]

In the Social Sciences

The situation in the humanities and social sciences is even worse. A fantastic 1,000 applicants applied for eight positions in the English Department of the University of Massachusetts.[7] A total of 29,000 Ph.D.'s were turned out in 1969-70, perhaps double the number needed for college teaching posts. *The Chronicle of Higher Education,* a newspaper for college administrators, ran a series of articles on the crisis in late spring and early summer of 1970 dealing with the oversupply of teachers. It reported that the Cooperative College Registry, a nonprofit placement service for some 300 Protestant colleges, announced that in mid-May there were still 45 per cent of its 9,500 applicants without offers. Some 55 per cent of the applicants had the Ph.D.; prior to 1970, 45 per cent had been the maximum.

The extent of the crisis may be

[4] Cf. Michael D. Reagan, *Science and the Federal Patron* (New York: Oxford University Press, 1969). Reagan favors such patronage, but he shows the problems inherent in such a relationship. He also provides considerable economic data on the extent of the aid.

[5] *Time* (June 29, 1970).

[6] *The Chronicle of Higher Education,* IV (June 8, 1970), p. 8.

[7] *Time* (June 29, 1970).

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estimated by the fact that the Cooperative College Register is the "last chance" employer registry. The colleges tend to be small, low-prestige schools that can afford only below-average salaries. This normally makes them more flexible, however, since pay scales are more responsive to the conditions of supply and demand. A glut here indicates a crisis unrivaled since the mid-1950's.

Causes of the Crisis

A standard explanation offered by the educational establishment is that there really is no oversupply of teachers, and there still is a shortage. However, the demand has dried up, a direct consequence of short-sighted legislators and angry citizens who keep rejecting bond issues.[8] In other words, the failure of the educational market to clear itself of all prospective teachers is in no way related to the excessive zeal of academic departments in expanding course offerings and graduate fellowships; it is due to the tight-fisted taxpayers who refuse to spend additional billions on educational facilities, programs, and salaries.

[8] Cf. statements by Cleo Craig and H. R. Rouse of the Wilson Scholarship Foundation (whose Ford Foundation funds were recently cut off): *Chronicle of Higher Education*, IV (May 25, 1970), p. 7.

This makes for good propaganda; economically, it skirts the real issue. Naturally, there is a limited supply of teachers. There is a limited supply of automobiles, televisions, diamonds, clean air, pure water, tortilla chips, and anything else that commands a price. We live in a world of scarcity. A scarce good, by definition, is one for which there is greater demand than supply at zero price. Imbalances in any market can be blamed on high or low demand, just as they can be blamed on high or low supply. The problem arises when prices are not flexible, thus creating permanent imbalances. If the phrase, "shortage of teachers," is to have any meaning at all, it must be qualified by the phrase, "at a particular wage level." There is no question about the fact that at present high wage levels, there is nothing resembling an undersupply of teachers. There is no question that there is an imbalance of supply and demand at present wage levels.

Educators need to ask themselves two crucial questions. First, why are wages so inflexible downward? Second, why were those whose task it is to forecast the needs in education so short-sighted? How did it happen, for example, that in 1963 the estimated need for new teachers at the college level in history was set

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at 390 for 1969-70, whereas the actual need turned out to be 500, and the actual supply was 881?[9] Why did so few graduate advisors take seriously the estimates presented by Clark Kerr, then President of the University of California (1966), that only two-thirds of the 1971 Ph.D.'s could be employed in the colleges?[10]

Minimum Wage Floors

About 75 per cent of those attending institutions of higher learning are in tax-supported public schools. By their very financing structure, these institutions are notoriously unresponsive to market conditions of supply and demand. For many decades, legislatures have met the basic budget demands of the colleges in the United States, and this has tended to insolate the schools and scholars from external economic realities. They are not paid to forecast market conditions in the future, and they do not concern themselves with such matters, at least not at the graduate advisory level. The private schools, supported by foundations and government research grants, are frequently as lax as the public schools. They are, in every sense of the word, guilds.

Historically, guilds have resisted price and wage competition. They speak of themselves as "quality-oriented," which implies an elitist perspective, since it is price competition which has always characterized production for a mass market.[11] Educational institutions have been caught in a dilemma: they are supposed to maintain quality without compromise, yet supply the needs of mass education. Schools are to be simultaneously democratic (supported by tax funds) and elitist (preserving quality, ignoring "crass" economic affairs). Higher education in America is institutionally schizophrenic.

A competitive market institution would respond rapidly to new conditions of oversupply of a factor of production by bidding down the price of the good. That is what faculties should do in the face of the Ph.D. glut. They should drop salaries at the starting level. It would enable schools to hire more people, and it would make very plain to prospective Ph.D. students just what the economic facts are in the employment market. But that is not the response of faculties. Faculties

[9] *Chronicle* (June 8, 1970), p. 1.

[10] Kerr's estimate was revealed at a meeting of California Club, the student advisory body in the University of California. He was simply reporting the data gleaned in a study which apparently was available to all college administrators.

[11] Max Weber, *General Economic History* (New York: Collier, [1920] 1961), p. 230.

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like high salaries for all those employed; it supposedly is a sign of institutional prestige to pay high wages, and thus prestigious to be employed by such institutions.

Faculties also have the ultimate job security: tenure. This protects those who have tenure from being fired. Thus, any drop in demand must be exercised at the level of the new professors, fresh out of graduate school. But if their salaries are lowered disproportionally, considerable institutional conflict may result. It may even lead to the decision by the administration to lower the salaries of those men whom it cannot dismiss. There is a built-in preference, therefore, for high wages and low competition on a semiclosed market. It is a guild-like attitude. Those outside the system have a hard time breaking in. Their chief economic weapon, namely, their willingness to take a lower wage, is not easily exercised.

This is especially true in state schools which have fixed wage floors set by the legislature or local junior college school district. The California junior colleges are the prime examples. Like the high schools from which they recruit their teachers, the junior colleges pay men in terms of formal educational achievement: so many units beyond the B.A. yields so much extra pay. So much experience yields so much extra pay. The new Ph.D. has to be paid, in 1971, about $13,000; there is no bargaining possible. Few districts want to pay that much to a man who (1) may quit and go to a four-year college, (2) may embarrass a local administrator who holds only an M.A. in education, (3) may not teach the junior college's substandard students as well as a man who has taught high school for ten years. The Ph.D. is effectively locked out of junior college employment (unless he started as an M.A. and earned his degree while employed). There is simply no wage flexibility. As a result, junior college districts are permitting an opportunity to "upgrade" their faculties at less cost than before to slip through their administrative fingers.

Tenure

Tenure supposedly protects the professor from being fired for expressing opinions abhorrent to administrators, legislators, or local citizens (including students). This was a keystone in Prussia, where state-supported higher education was pioneered in the nineteenth century. It makes very little sense today. As Robert Nisbet has argued in his iconoclastic and reasonable essay on our Per-

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manent Professors, no one is fired for mental or moral incompetence any longer, the two chief ways of dismissing tenured men. The exceptional mobility of modern teachers removes any serious threat to academic freedom, since institutions are varied enough to let men find a platform to teach almost anything. The very guild structure promotes a basic uniformity of methodology today, insuring general agreement within most academic departments – or so we found until the mid-1960's. Finally, Nisbet argues, if academic freedom is really the issue, why limit it? Why not let junior members have it? "On what logical grounds, then, do we claim exemption for age and rank, in certain respects the most feudal of all feudal qualities?"[12]

Tenure, far from protecting men in their expression of controversial opinions, has enabled men to express no opinions at all. Teaching has become lethargic as men pursue their academic careers in the academic journals (100,000 in the world today[13]) and their annual meetings. Tenure protects the man without the flair for teaching, the man who has no controversial opinions to distinguish his lectures, the man whose very blandness insures his protection from "academic witch-hunters," but who has never learned to compete in the world of student education. Tenure has turned the university over to the drone, the pedant, the writer of overfootnoted, mindless articles. It might even be true to say that the spirited junior teacher with controversial opinions has more to fear from his tenured, spineless, drab colleagues than from the outside public. And drones, it should be noted, are not known for their flexibility. Wage scales reflect this, especially when conditions dictate a downward revision. Institutional inflexibility rewards the inflexible. Nonmarket financing keeps the structures inflexible.

The Subsidized Product

The discussion above focused on the implications of the demand side of the equation. We must now turn to the supply side of the Ph.D. equation. Why are there so many of them being produced?

Many reasons exist. A primary factor was the existence, until 1968, of the graduate school military draft deferment. This functioned as an indirect subsidy to

[12] Robert A. Nisbet, "The Permanent Professors: A Modest Proposal," (1965) in Nisbet, *Tradition and Revolt* (New York: Random House, 1968), p. 241.

[13] M. King Hubbert, "Are We Retrogressing in Science," *Geological Society of America Bulletin*, LXXIV (1963), p. 366.

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graduate departments. "Canada" was as close as the nearest university. Another factor is the tendency of all bureaucracies to expand to the limits of their fiscal capabilities. For example, academic departments in most state schools are funded in terms of student enrollment; this figure establishes the so-called FTE rating: Full Time Employees. In California, a fixed formula is used. A 28-students-to-one-faculty-member ratio operates, with lower division students rated 1, upper division students at 1.5, Master's Degree candidates at 2.5, and Ph.D. candidates at the maximum weighting, 3.5. As David Breneman comments: "Note that each advanced doctoral student enrolled brings the campus ⅛ FTE faculty position."[14] He adds that no strict mechanical relationship exists at the departmental level, but faculty appointments relate closely to weighted student enrollments. Furthermore, once the number of faculty appointments is established, "other resources such as office space and nonacademic personnel can be functionally related to the faculty members."[15] It pays a department to expand graduate programs.

This does not mean that it pays departments to actually award a large percentage of degrees. On the contrary, departments must limit such awards to those students who will produce the greatest prestige for the department in the academic community. Also, some science departments must provide access to sophisticated experimental equipment to Ph.D. students, so some attempt will be made to flunk out inferior students at an earlier stage. This is not true, however, in the humanities. Breneman's comments are illuminating:

> From the perspective of the French faculty, then, the graduate student must be viewed as a very valuable member of the department's economy. Not only does the graduate student teach the dull introductory courses, but he is a source of student credit hours and demand for advanced instruction. Departmental technology is such that having graduate students in residence for several years is costless to the faculty, and not without certain advantages. . . . Consequently, in this type of department faculty members have no incentives to make rapid decisions to terminate Ph.D. aspirants.[16]

The taxpayers, of course, bear the major costs of this decision. The student may drop out for

[14] David W. Breneman, An Economic Theory of Ph.D. Production: The Case at Berkeley, mimeographed, June, 1970, a study sponsored by the Ford Foundation, p. 49.

[15] *Ibid.*, p. 50.

[16] *Ibid.*, pp. 67-68.

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many reasons, but the longer he stays in, the closer he believes himself to be at the pay-off point, the granting of the degree. In the humanities, the degree is all-important, since it is the union card for college level teaching, and industry has little need for highly specialized humanities students. Thus, departments get bloated with graduate students, and while the percentage of those who are awarded the degree may stay low, the absolute number of awards increases. Jobs open up in other universities which are also expanding their graduate programs, thus creating demand for more Ph.D.'s. The entire structure is geared to the growth of graduate enrollments.

Colleges gain greater prestige by becoming full universities. If they do, they can gain access to Federal research funds, and these have expanded exponentially since 1950 (the cut-off came in 1968). Fellowships and teaching assistantships were multiplied, while loan programs at low interest were made available to those students who did not become part-time employees of departments. These loans, especially under the National Defense [the magic budgetary word in the mid-1950's] Education Act, could be canceled after five years of teaching of the recipient.

Graduate students in the humanities do not generally understand economics. They are not so aware of the employment situation, and as Breneman shows, departments are often rewarded by keeping their students in the dark on this issue, thus encouraging them to stay in the program. Students without the Ph.D. have few college teaching employment opportunities, so the opportunity costs of staying in the program are lower than, say, an engineer who can take his M.A. and get a good job in industry (again, before 1968). So the main concern for the student in a state university is the size of his state-supported subsidy: the number of campus jobs, the size of tuition costs, the availability of loans.

Graduate education is costly. Obviously, in terms of faculty members employed, the Ph.D. student is around three times as costly, especially if he does not assume any teaching load as an assistant. There is simply no way of estimating the cost per student per year, or so I am told by the university budget department. French students cost less than physics students in applied physics, and possibly more than those in theoretical physics or mathematics. But it is possible to estimate in a crude fashion that it costs, at an average, $3,500 per student in the University of California; graduate

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students are more costly, though by how much it is difficult to say. But tuition, until 1970, covered at best less than 10 per cent of this, or $300. For the graduate student, the subsidy would be even greater.

Subsidies Have Consequences

Subsidize the production of a scarce economic good, and there will be an oversupply of that good in terms of true market demand. That law is as applicable in the Ph.D. market as in that for surplus wheat or Army fatigues. This is the fundamental cause of the oversupply of Ph.D.'s: planning was not made in terms of an unhampered market but rather in terms of a government-subsidized market. Demand was cut off sharply by falling school budgets, but candidates for the Ph.D. degree are not rapidly responsive to this contraction: the other man may not be able to find a job, but each candidate believes that he will finish his dissertation and get the available position. A market geared to the dream of continual expansion has been cut short, and few persons within the structure are economically oriented enough to respond as rapidly as free market participants are forced to do. Like the civilized Eskimos who have forgotten how to build an igloo, those supplying Ph.D.'s have forgotten the hard realities of a market characterized by uncertainty. The result has been the teacher glut.

Market Forces

This market, like all markets, will eventually respond to the conditions of supply and demand. Departments will cut back on enrollments, especially as budgets are trimmed during a time of inflation. Fellowships will shrink in number. Federal grants to the scientists will not increase exponentially any longer. In time, teaching loads will be increased in many universities; wage inflexibility downward will be compensated for through these increased teaching responsibilities. But it is unlikely that these changes will come overnight. It *is* likely that the glut will continue for some time. New graduates will find it very difficult to break into their first jobs; professors' mobility will drop, the inevitable result of wage inflexibility. One rigidity creates others. Inflation will continue to eat away at teachers' salaries, thus bringing real wages into line with the conditions of supply and demand, and the oversupply of available talent will thwart attempts to unionize the profession – attempts which are on the increase now, as the Ph.D., in and of itself, no longer functions as an effective barrier to entry into the guild.

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What we are witnessing is a major transformation of the function of the Ph.D. degree itself. Once a prestige indicator and a monopolistic grant to the holder, today it is faltering in both capacities. In the long run, this development may be for the best. The mystique of the Ph.D. has for too long been unchallenged. It has degenerated into little more than an official certification of intellectual drudgery. As E. Alden Dunham of the Carnegie Corporation of New York has written:

> Every ill besetting our colleges and universities is related in one way or another to the Ph.D. degree – student alienation, irrelevant curricula, uninspired teaching, ironclad adherence to what may be outmoded traditions, absentee professors, extravagantly high costs of research and graduate education. . . . [It is] inappropriate for most college teaching jobs in this country, especially at the lower division level. Yet it remains the only respectable degree for college teachers as we move into an era of mass higher education. The percentage of Ph.D.'s on the faculty continues to be the index of quality. Our system makes no sense.[17]

[17] Dunham, quoted in *The Chronicle of Higher Education*, IV (March 16, 1970), pp. 1, 5. Edmund Wilson, in his devastating essay, *The Fruits of the M.L.A.* [Modern Language Association] (New York Review of Books Publication, 1969), writes that we missed our chance to abolish the Ph.D. as a "German atrocity" during World War I.

Pluralistic Education

For too long, to paraphrase a generally accepted slogan when it applies to the military, education has been in the hands of the educators. Monopoly grants continuing over long periods of time tend to degenerate into less efficient units of service or production. Yet the crisis of the teacher glut is only one aspect of a major crisis in education. It is essentially a crisis of faith; relativism has led to irrelevance on the campus. Few students – few bright students – are dazzled by the initials "Ph.D." after a name, at least not beyond the sophomore year. No one knows where the educational crisis will lead us by 1980, but this seems certain: any crisis in financing will produce radical changes in the operation of any bureaucracy, even the educational bureaucracy. Inflation will take its toll; so will the allocation problem with regard to the creation of Ph.D.'s. Radical students will strike the institution at a time of change, internal confusion, and financial contraction. Few schools that have been caught up in the race for academic prestige will escape the coming transformation.

There is cause for hope among people who have not clung to a philosophy of relativism as a means of academic salvation. If both public and private academic

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institutions that have embraced relativism are now reaping the whirlwind, parents and students are going to be looking for alternative educational structures. Prospective teachers may not be able to compete in terms of price or academic degree on most academic markets, but they can compete in terms of both price and ideological commitment on those academic markets that are more openly committed to a particular view of the world. Pluralistic education has been stifled for almost a century by a philosophy of neutral education grounded in relativism and enforced by the various academic guilds. But the fruits of that view of education are exploding on those campuses that have been the formulators of the creed. Columbia, Harvard, Berkeley have all been hit precisely because the very bright students have seen through the myth of educational neutrality. Pluralistic education can conceivably be the ultimate beneficiary of the institutional crisis which we face.

Since the vast majority of the people holding the Ph.D. and other higher degrees are not really committed to anything beyond the latest fad among the professorial guild, the serious man who holds a degree but who also holds a systematic philosophy of life now is in a position to distinguish himself from the hordes of other applicants for jobs. The savings in search costs that the Ph.D. once offered ("no non-Ph.D.'s need apply") no longer works in a glutted market. There is an oversupply of degree-holders, but not an oversupply of free market advocates holding the degree. If the swing away from the intellectually castrated philosophy of neutral education (the only kind legally permitted by state-financed schools) continues, there should be a new demand for men and women committed to a consistent view. Only with such a view can serious education that is content-oriented rather than mere technique-oriented, i.e., liberal education in the traditional meaning, be maintained. Only value-oriented teaching can pick up the institutional pieces. This should be the hope of those behind private educational institutions.

The Effect of Controls

There is one last consideration. The imposition of price and wage controls becomes more and more of a possibility. These controls have disastrous effects in the long run, but initially certain zones of the economy are favored.[18] One of

[18] Gary North, "Price-Wage Controls: Effects and Counter-Effects," *Commercial and Financial Chronicle* (Aug. 21, 1969).

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these, as Prof. Hans Sennholz has pointed out, is private education. As money continues to be printed by the state and the state's central bank, it seeks markets. Controlled markets within the economy dry up, as capital and labor shift to the uncontrolled zones – collectors' markets, luxury goods, entertainment, travel, and education. State-financed educational institutions are caught in the wage-price squeeze: legislatures and bond-voters are tight-fisted (as their purchasing power continues to decline). But the private schools reap at least an initial subsidy. State schools limit or close enrollments, but people have money to spend, and these funds find their way increasingly into educational outlets. We should expect to see the expansion of private education of all kinds: high schools, colleges, night schools, cultural institutions. A true opportunity for the establishment of truly universal, pluralistic education would make itself available. The shift away from the public educational monopoly that is already showing signs of life would be subsidized by the very imposition of statist controls.

In the last analysis, the educational system has become overly dependent upon the state and the necessary educational philosophy of all state-financed education, i.e., the philosophy of neutral education. Today we see the erosion of the monopolistic foundation of the professorial elite, as the overproduction of members continues – an overproduction financed through the taxation of the democratic masses. The masses are finally saying no with their funds. A glutted elite will feel the pinch, as only an elite which has never faced squarely the realities of supply and demand can feel an economic pinch. The facts of economic scarcity can no longer be avoided in the ivy-covered halls. And that very fact may herald a new day for the advocates of value-oriented education. Technocratic liberal arts departments are running out of funds.

IDEAS ON LIBERTY

John F. Kennedy

THE FREE MARKET is not only a more efficient decision maker than even the wisest central planning body, but even more important, the free market keeps economic power widely dispersed.

Quoted in the *Wall Street Journal*, October 3, 1962

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Thomas Cooper:

EARLY LIBERTARIAN

OSCAR W. COOLEY

TWENTY YEARS before Frederic Bastiat wrote his parable of the broken window, Thomas Cooper was saying to his students at South Carolina College (now University of South Carolina):

"Suppose a tailor to get into a law suit and to pay a lawyer fifty dollars for successfully conducting his cause – or to break his leg and pay a surgeon fifty dollars for setting it; these payments are prudent, and the services rendered fully justify them; but is he the richer for these misfortunes? Even though the lawyer and the surgeon should lay out the fifty dollars with him for a suit of cloaths, it is no compensation, for he furnishes the cloaths after having furnished also the money that pays for them. It is melancholy to think that these positions should require to be gravely argued, but the present state of public opinion requires it."

Born in London and educated at Oxford, Cooper emigrated to the United States in 1793. A man of strong opinions, he expressed himself freely on current public questions and was so critical of the Adams Administration that he was arrested and tried under the Sedition Act (the Alien and Sedition acts are usually bracketed together). Cooper believed the act was unconstitutional, and the court so held. He later wrote a book on freedom of speech.

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Cooper practiced law in Pennsylvania and became a judge. On recommendation of Thomas Jefferson, he was appointed professor of natural science and law at the University of Virginia. From there he went to South Carolina College, where he taught chemistry and political economy. A man of parts, he was made president of the institution, a post he held for 12 years.

Champion of Free Trade

While head of South Carolina College, Cooper published his *Lectures on the Elements of Political Economy,* a comprehensive treatise expounding the classical economics in a forthright manner. With especial vehemence, he championed free trade. One can imagine this did not detract from his popularity in a state that put great store upon the export of cotton to Great Britain and the import therefrom of manufactured goods. Indeed, Cooper appears to have been hardly less influential than John C. Calhoun in egging on the South Carolinians to declare, in 1832, that the Federal tariff laws were null and void in their state. On the basis of the theory of state nullification, the doctrine of interposition has been put forward in recent years by Southerners who resented Washington's efforts to enforce racial integration.

For the most part, Cooper took his economics straight from Adam Smith. The private enterpriser knows best – far better than any government official – how to use his resources. Let self-interest reign. "If every man in the country trades beneficially for himself, he trades beneficially for the community, which does not exist independently of the individuals who compose it."[1]

Governments should be kept small. "The dreadful evil of all governments (I wish I could except our own) is the evil of governing too much."

All laws, suggested Cooper, should be reconsidered every ten years and, if found unnecessary, repealed. This recalls Jefferson's proposal that the Constitution should be reconsidered and overhauled every 20 years.

Cooper warned especially of the "general welfare" clause of the Constitution: "There is no tyranny that it will not authorize."

But it is against government strictures on foreign trade that he waxed most eloquent. "Shallow politicians have . . . acted on the shop-keeping maxim that what one nation gains by commerce, some other loses. The fact is otherwise; each gets its wants supplied and both are gainers."

[1] This and all other quotations in this article are from the *Lectures* (1826).

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He attacked the "infant industry" argument for protective tariffs, saying that this theory seeks to justify injuring consumers in the present for the hypothetical benefit of producers that might be employed by the protected industry in future.

Friedrich List, then sojourning in America, took critical notice of Cooper and his free trade opinions, implying that he was little less than an anarchist. List himself, it will be remembered, was an early promoter of the customs union which established free trade between the German states – but definitely not with the outside world.

Champion of Foreign Trade

Cooper felt that even Adam Smith had conceded too much to the protectionists. Smith had held that it might be advisable to protect an industry whose product promised to be of strategic importance in war. Cooper held that such products would not be wanting for they would be stockpiled by a provident government, and in any case, wars seldom if ever completely isolated a country from foreign sources of strategic goods.

The great service of the science of Political Economy, he said, was to teach the importance of free world trade. The following are hardly the words of an anarchist:

"If Political Economy had rendered no other service to mankind than to make them just and reasonable in this respect (in respect to foreign trade), it would be of incalculable benefit. It has taught us that human improvement and national prosperity are not promoted in any particular nation by depressing every other but by aiding, encouraging, and promoting the welfare of every nation around us; that we are all in turn customers to each other, and that no man or nation can become wealthy by impoverishing his customers; (that) the richer other nations are, the more they are enabled to purchase, the cheaper they can afford to sell, the more improved they become in all the arts of living, in all intellectual acquirement, in everything desirable for other nations to imitate or improve upon; that if other nations become powerful by our assistance, we also of necessity become wealthy and powerful by our intercourse with them; and that peace and good neighborhoods are the means of mutual happiness among nations as among individuals. . . ."

In the *Lectures* Cooper ranged over the whole area of economic theory. On many facets of the subject, he was far ahead of his time. For example, cost of production, he said, does not determine value of a product. It must be in demand. "No purchaser cares a cent

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what the prime cost of an article is; that is not his lookout. His only enquiry can be, is it worth to me the price asked for it?"

He admitted that the introduction of machines might create unemployment but it would be temporary. (He was, of course, assuming a free labor market). When printing presses were first put into operation in Paris, he said, 6,000 copyists lost their jobs, but "in Paris there are now 60,000 persons who live by printing."

He attacked the policy of endowing corporations with limited liability, holding that since the stockholders are allowed to enjoy unlimited profit, they should also endure whatever losses may be incurred.

Champion of Private Spending Rather Than Government Spending

There were rudiments of a welfare state even then, but Cooper would have none of it. "All relief to persons in this country able to work is absolutely indefensible and wrong," he said. "Even cases of disability should be left to private charity. . . ." To combat poverty, he urged the "modern remedy of Savings Banks," and suggested that the clergy teach people to save and accumulate deposits in such banks. He was, perhaps, aware that the first savings bank in the British Isles had been established by a Scottish dominie and that the first such banks in the United States were founded, not for profit, but for a charitable purpose.

He condemned Sir Robert Peel's suggestion that a national debt might be a "national blessing" (Alexander Hamilton had averred as much) and argued that there was no merit in government spending as compared with private spending. To the extent that spending benefited the spender, it benefited society.

However, he was not averse to all public works. Whether government should undertake a public work or not, he held, depends on how great a public benefit it is and whether it is too costly for individuals. Then follows a statement which showed that he was quite familiar with the principle of cost-benefit analysis. "The guiding rule ought to be that an undertaking which is not likely at an early period of its completion to insure at least legal interest upon the capital expended after all deduction is not deserving of public encouragement. I think many of our canal schemes liable to this objection. Money can be laid out so as to produce this return. It is therefore misapplied when it does not. Wait until it will."

Lawyer, chemist, political philosopher, the versatile Cooper was pre-eminently an economist. He

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saw the importance of "political economy" in determining the course of this country's history. Written at a time when texts in that subject were few, his *Lectures* must have made considerable impress on American thinking.

John Adams described him as "a learned, ingenious, scientific and talented madcap." Certainly he was outspoken. Unorthodox utterances regarding religion are said to have brought about an end to his career at South Carolina College. He died in 1839.

IDEAS ON LIBERTY

Common Sense

THE PERCENTAGE of correct decisions which individuals make is very high when they are risking their own money and their own future. The percentage of correct decisions is very low when made by politicians, so-called intellectuals, and others, regardless of their intelligence, who are not faced with the discipline of having to pay for their own mistakes with their own earnings.

This is a major reason for the success of free enterprise and the free market. The percentage of correct decisions made by individuals directly increases and is higher as they directly participate in the results of those decisions, whether good or bad. Individuals participating in this way quickly learn from their mistakes, and although they will make others, they will usually not make the same mistakes twice. This is common sense at work and only under the free enterprise system does common sense prevail.

A. W. STEWART

From the "President's Column" of the Southern States Industrial Council *Bulletin*, January 1, 1971

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ANTITRUST HISTORY:
The American Tobacco Case of 1911

D. T. ARMENTANO

A LONG ACCEPTED assumption in the area of government and business relations is that the "classic" monopoly cases of antitrust history clearly demonstrate the need for, and justify the existence of, the antitrust laws. The impression created by almost all the textbooks on this subject is that the business monopolies or "trusts" indicted in the past were – as the textbook theory suggests – actually raising prices, lowering outputs, exploiting suppliers, driving competitors from the market through predatory practices, and, generally, lowering consumer welfare. Ironically, few if any of these same texts provide the student of antitrust with the necessary empirical information that might allow an independent judgment as to the relative conduct and performance of these "monopolies." For the most part, the student is asked to accept the judgment of the author, without being permitted to scrutinize the "brief for the defendant." Such one-sidedness is the kind of poor economic history that leads, inevitably, to poor public policy.

The following is a brief history of the American tobacco industry, and particularly of the American Tobacco Company, prior to the famous antitrust decision of 1911.[1] Unlike many previous accounts, this one will attempt to explain and evaluate the conduct and performance of the American Tobac-

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[1] *United States* v. *American Tobacco Company*, 221 U.S. 105.

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co Company in the full context of the tobacco industry between 1890 and 1907. While this history might be interesting for its own sake, the ultimate purpose is to demonstrate that the court decisions against the American Tobacco Company prior to 1911 did *not* turn on any sophisticated economic analysis of that firm's market conduct or performance. The firm was eventually found guilty of violating the Sherman Act, but the decision was *not* a consequence of any serious evaluation of the economic costs and benefits of the firm's activities in the market place.

Cigarettes in America

Although cigarettes appeared in America in the early 1850's, and were unpopular enough with the government to rate their own special penalty tax of up to $5 per thousand by 1868, there was hardly what could be termed a cigarette manufacturing industry before the 1880 period.[2] Up to that point, the cigarette business had been concentrated in the New York City area where many small firms employed cheap immigrant labor to "hand roll" mostly Turkish blends of tobacco. But the raw material was relatively expensive, and the hand rolling operation was relatively inefficient and costly. Besides, there appeared to be great popular reluctance to accept the small cigarettes. Consequently, the outputs and markets were severely limited. Total output of all "manufactured" cigarettes was never more than 500 million in any one year prior to 1880.

But the rather rapid shift in public taste to Virginia blends of tobacco, the slow adoption of machinery for manufacturing cigarettes, and the extensive use of advertising to popularize particular brands or "blends" of tobacco, changed the industry radically beginning in the 1880's.

The use of rapidly improving machines that manufactured cigarettes quickly drove down the costs of manufacture and placed a profit premium on mechanization. Labor costs alone were reduced from 85 cents per thousand without machines to 2 cents per thousand with machines.[3] While an expert "hand roller" could make approximately 2,000 smokes a day, a

[2] For information concerning the cigarette industry prior to 1911, see Meyer Jacobstein, "The Tobacco Industry in the United States," *Columbia University Studies*, Vol. 26 (1907); Richard B. Tennant, *The American Cigarette Industry*, (New Haven: Yale University Press, 1950); William H. Nicholls, *Price Policies in the Cigarette Industry*, (Nashville: The Vanderbilt University Press, 1951); John W. Jenkins, *James B. Duke: Master Builder*, (New York: George H. Doren Company, 1927).

[3] Tennant, *The American Cigarette Industry*, pp. 17-18.

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properly operating cigarette machine could make 100,000.[4] A few leased cigarette machines – particularly the "Bonsack" machine – could, in a matter of days, generate the entire yearly output of cigarettes. Thus, almost overnight, the optimum size of an efficient cigarette firm increased manyfold, and almost the entire industry emphasis shifted to creating or expanding demand for particular blends of "manufactured" cigarettes. Advertising and marketing expenditures began in earnest in the late 1880's, and it was not at all surprising to find only five large firms doing most of the trade in manufactured cigarettes by 1889. Though there were hundreds of small cigarette producers (mostly hand-rolled varieties) in that period, the firms of Goodwin and Company, William S. Kimball, Kinney Tobacco, Allen and Binter, and the W. Duke & Sons Company came to dominate the young industry and did an estimated 90 per cent of total domestic cigarette sales.[5]

The name of James B. Duke is almost synonymous with cigarettes and the rapid rise of the tobacco industry in this country. Though a relative newcomer to the cigarette industry (he entered in 1882), Duke quickly pushed his firm into industry leadership by rapid mechanization of all his operations and, accordingly, huge advertising schemes to increase demand for his increased outputs.[6] He took huge newspaper ads and rented billboard display space to push "Duke of Durham" and "Cameo" brands; he placed redeemable coupons inside his new and improved cigarette boxes to popularize "Cross Cut" and "Duke's Best"; and he enticed jobbers and retailers with special bonus plans and gimmicks if they would handle and stress his products. This unusual marketing approach was extremely successful, and by 1889 Duke's cigarette firm had over 30 per cent of industry output and was netting almost $400,000 a year on gross sales of $4.5 million. Duke's firm was the largest and most profitable firm in the manufactured cigarette industry, and appeared to be growing much more quickly than its rivals could or would.

Consolidation in 1890

In January of 1890, the five leading cigarette firms came together to form the American Tobacco Company and installed J. B. Duke as President. Although com-

[4] Jenkins, *James B. Duke: Master Builder*, p. 66.

[5] Tennant, *The American Cigarette Industry*, pp. 19-25.

[6] Jenkins, *James B. Duke: Master Builder*, pp. 73-84.

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petition between the leading firms had been severe in the late 1880's, there is little evidence that the combination was the direct consequence of a "destructive trade war" as some accounts relate.[7] Rather, it was an almost inevitable consequence of the economics of the cigarette industry in 1890.

Potentially, the cigarette industry appeared immensely profitable. The price of leaf tobacco, the raw material, was historically very low (about 4 cents per pound); the cost of manufacture – even with less than optimal utilization of equipment – was extremely low; and the existing market prices for cigarettes were already high enough to allow adequate profits. Two things alone remained to cloud the potential profits picture of the industry: maximum utilization of the largest, most efficient machinery to drive the costs per unit down to an absolute minimum; and an elimination or severe reduction in total advertising expenditures as a per cent of total output or sales.

Merger provided both of the last-mentioned economies. Consolidation would allow concentration on those blends of tobacco that could be produced most efficiently. Consolidation would also allow great economies of scale to be realized in advertising expenditures. Thus, production and selling expenditures could be lowered per unit of output, and profits could grow accordingly. A combination or "trust" of small cigarette firms was, thus, a natural and predictable economic arrangement since it was clearly more efficient than a decentralized market structure.

Diversification

Between 1890 and 1907, American Tobacco or the "Tobacco Trust" diversified into a number of related industries. Diversification was to be expected since cigarettes, although extremely profitable, represented only 3 to 5 per cent of the entire tobacco industry in 1890.[8] In addition, the public's changing tastes obsoleted particu-

[7] Nicholls, *Price Policies in the Cigarette Industry*, states flatly that The American Tobacco Company was formed in 1890 following an expensive business war begun by James B. Duke (p. 26). But neither the *Report of U.S. Commissioner of Corporations*, Vol. I (Feb., 1909), which Nicholls indicates was his source, nor the lower court decision against American Tobacco in 1909, appeared to bear this out. See William Z. Ripley, *Trusts, Pools and Corporations*, revised edition (Boston: Ginn & Company, 1916), pp. 269-270; and, see 164 Fed. Reporter 722.

[8] Even in the 1900-1904 period, cigarettes, by weight, represented only 2 per cent of all tobacco products consumed. See Nicholls, *Price Policies in the Cigarette Industry*, p. 7. Cigarettes did not achieve any sort of national popularity until after World War I.

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lar brand names and even whole products rapidly and, thus, made any specialization extremely dangerous.[9] Furthermore, there was a distinct prejudice against machine-made cigarettes and sales simply did *not* expand as rapidly as anticipated. While American Tobacco had produced slightly more than 3 billion cigarettes in 1893, they produced only 3.4 billion in 1899 and less than 3 billion annually between 1900 and 1905; American's production of cigarettes in 1907 was only 3.9 billion. Even more importantly, American's share of domestic cigarette sales declined from over 90 per cent when the firm was formed in 1890 to 74 per cent in 1907.[10]

For the most part, American Tobacco's diversification and growth in the tobacco industry was accomplished through the direct purchase of existing firms with cash or stock. It is estimated that American may have bought as many as 250 firms between 1890 and 1907.[11] A very few of these purchases were competitive cigarette manufacturers – *though the bulk of them were not.* Most of these cigarette purchases were made, apparently, to acquire a successful brand-name, since brand-name loyalty was the greatest asset of any tobacco firm.[12] The bulk of American Tobacco's purchases, however, were firms producing noncigarette tobacco products. For example, diversification into firms that made smoking tobacco, snuff, plug chewing tobacco, and cheroots was begun as early as 1891. These tobacco products were noncompetitive with cigarettes and with each other, and had their own particular markets and used their own particular kind of leaf tobacco.[13]

In 1898, after many years of competitive low-price rivalry,[14] American purchased the leading plug manufacturers, including, at a later date, the large and important Liggett & Myers Company. They were subsequently organized into the Continental Tobacco Company, partially owned and completely controlled by Duke and American Tobacco interests.

[9] Jenkins, *James B. Duke: Master Builder*, pp. 91-92.

[10] *U.S. Research and Brief*, 221 U.S. 106, Appendix "F", p. 318. Also see Jones, *The Trust Problem in the United States*, p. 140. Higher percentage figures in some accounts (83 per cent is a common figure for 1907; see Nicholls, *Price Policies in the Cigarette Industry*) measure American's share of *total* output rather than output for domestic consumption.

[11] Tennant, *The American Cigarette Industry*, p. 27.

[12] Jenkins, *James B. Duke: Master Builder*, p. 149.

[13] *Transcript of Record*, 221 U.S. 106, Volume I, p. 254.

[14] It was not established at court that American Tobacco started this price war; see 164 Fed. Reporter 723, and 221 U.S. 160.

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Shortly after, in March, 1899, the Union Tobacco Company – manufacturer of the famous Bull Durham smoking tobacco – was purchased. The American Snuff Company was then organized in March, 1901, with a paid in capital of 23 millions, and the stock was paid out to the three leading, formerly independent, snuff manufacturers. The American Cigar Company was also formed in 1901, and became the largest firm in that sector of the tobacco market. In addition, American purchased licorice firms, bag firms, box firms, firms that made cigarette machinery, tin foil, and processed scrap tobacco.

By 1902, American Tobacco was manufacturing and selling a complete line of tobacco and tobacco-related products – including over 100 brands of cigarettes – and over 60 per cent of the nation's smoking and chewing tobacco, about 80 per cent of the nation's snuff, and 14 per cent of its cigars. And when the newly organized Consolidated Tobacco Company, Continental Tobacco Company, and the American Tobacco Company all merged in October, 1904, to form the *new* American Tobacco Company, the last phase of the diversification and consolidation of tobacco properties was complete. The American Tobacco Company was now a major factor in *all* phases of the tobacco industry domestically and internationally (although relatively weak in cigars), and its position would be maintained (and even increased in plug chewing tobacco) until dissolution by the courts in 1911.

The 1890-1910 Period: Acquisitions

Though American Tobacco did acquire many firms in all phases of the tobacco business between 1890 and 1911, the total number of their acquisitions must be put in perspective. While over 200 acquisitions appears high – and creates the impression that only a few independent tobacco firms remained–the tobacco industry contained thousands of independent firms in the period under consideration. While American Tobacco did the great bulk of much of the tobacco industry in a few large manufacturing plants, *thousands* of smaller independent firms sold their products at a profit in the open market in competition with the "Trust."

For example, as many as 300 independent cigarette manufacturers may have existed in 1910;[15] similarly, while the Trust produced a great percentage of the nation's output of smoking tobac-

[15] See Nicholls, *Price Policies in the Cigarette Industry*, p. 17. Jones mentions 528 independent plants in 1906; see Jones, *The Trust Problem in the United States*, p. 146.

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co in fewer than 25 plants, there were as many as *3,000* plants manufacturing smoking tobacco in 1910.[16] In addition, the Trust accounted for only about seven of the nation's estimated 70 snuff manufacturing plants.[17] And finally, the American Cigar Company operated just *29* manufacturing operations in 1906, while the cigar industry contained upwards of 20,000 independent firms.[18] Thus, the tobacco industry contained thousands of firms *in spite of* the acquisition activities of the "Trust."

Entry and Economies of Scale

The major reason for the numbers of rival sellers is not difficult to discover. With or without the "Trust," entry into tobacco manufacture was relatively easy. The raw material was available to all at the going market rates and the Trust itself owned *no* tobacco land whatsoever. Anyone who wanted to compete could purchase the available raw materials and attempt to sell his product in the open market. In addition, the Trust possessed neither discriminatory transportation rates or rebates[19] nor any superior production method protected by patent.[20] Thus, it was not surprising to find many independent firms in an industry where neither the raw material nor the efficient means of production were, or could have been, "monopolized."

The major reason for the American Tobacco's policy of acquisitions is not difficult to discover either: it made economic sense. For example, much emotional nonsense has been made of the fact that American acquired firms and, subsequently, shut them down.[21] The crucial point, of course, is that American concentrated tobacco production – and particularly cigarette production with only two large plants in New York and Richmond – to achieve quite obvious and substantial scale economies.[22] Most of the acquired facilities were mechanically inefficient, and had been acquired only to secure the immensely more valuable competitive brand name. Once acquired the product itself could be produced more efficiently in American's own modern and efficient facilities. Thus, it made

[16] Nicholls, *Price Policies in the Cigarette Industry*, p. 15.

[17] *Ibid.*

[18] *Ibid.* p. 13. Also, see Ripley, *Trusts, Pools, and Corporations*, p. 295.

[19] 221 U.S. 129.

[20] Jacobstein, "The Tobacco Industry in the United States," p. 101.

[21] Wilcox, *Public Policies Towards Business* (Homewood, Illinois: Richard D. Irwin, 1966), says that one of the American's "unfair" methods of competition was buying plants *to shut them down* (p. 139).

[22] *Transcript of Record*, 221 U.S. 106, Volume I, pp. 208-211.

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good sense and good economics to close down marginal manufacturing operations, and no tears need be shed for the "dismantled factories." There is no evidence that any of the former owners shed such tears since American Tobacco's terms (stock in the Trust or cash) were admitted to be generous to all concerned. Thus, the plants were not acquired *just* to shut them down.

Other Economies Achieved

Other economies of the acquisition policy were achieved in important though not so obvious ways. For example, American's huge production made the ownership of its own foil, box, and bag firms almost mandatory, and the advantages and savings to be realized by accurate and continuous deliveries of these products made economic sense. Its acquisition of MacAndrews & Forbes and Mell & Rittenhouse, the two leading manufacturers of licorice paste, was predicated on possible economies and on the very real fact that the Japanese-Russian War threatened Near East licorice supplies and, consequently, American Tobacco's expansion of plug tobacco.[23] *Independent* foil, box, and bag firms still remained in the market place, and at least 4 other manufacturers sold licorice paste independent of the American Tobacco firms. There is also no evidence that American's paste firms refused to sell to anyone who wanted licorice at the going market prices. Thus, this aspect of the vertical integration of American Tobacco was economically logical and certainly cannot be condemned as *necessarily* restraining trade.

American's integration into distribution also realized economies. With the virtual elimination of the middleman, the jobbers not unhealthy margin could be realized by the tobacco manufacturer.[24] Wholly owned retail establishments could also push particular brands more effectively and become an important advertising and marketing innovation. American Tobacco's United Cigar Stores, the most famous and effective tobacco product's retail chain – with over 1,000 stores by 1910 and at least 300 in New York City alone – were certainly important in this respect.

There were still other more subtle economies. A certain amount of inefficient cross-hauling or cross-freighting was automatically eliminated since American Tobacco could fill orders for finished tobacco products from a number of different manufacturing loca-

[23] *Ibid.*, pp. 227-231.

[24] Tennant, *The American Cigarette Industry*, pp. 51-52.

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tions.[25] In those modernly equipped factories labored nonunion help, and this saved American from 10 to 20 per cent on its wage expenses *vis-a-vis* most of its competitors which employed Tobacco Workers Union labor.[26] The Tobacco Trust could demand prompt settlement of all outstanding accounts (30 days), while it was quite common for smaller manufacturers to wait two to four months for payment.[27] It could employ fewer salesmen per product since many of its brands were long established; orders could even be filled by mail without agents of any sort.[28] And, lastly, it could employ, and did employ, some of the keenest managerial talent in the industry,[29] and they proceeded to implement and extend the potential economies already discussed above.

Consumers and Competitors

But while the "Tobacco Trust" enjoyed "economies," what became of the tobacco consumer and of the "Trust's" competitors? Did American Tobacco simply act like a "classical" monopolist by restricting output and raising price? Or did American act like a "predatory" monopolist and use its market power to lower prices, and, consequently, drive its competition from the market? Actually, there is little evidence that American Tobacco followed either monopolistic-like conduct: they neither restricted outputs nor raised prices, nor engaged – as a general rule – in predatory pricing practices designed to eliminate their competition.[30] For example, American Tobacco's cigarettes (per thousand, less tax) sold for $2.77 in 1895, $2.29 in 1902, and $2.20 in 1907; fine cut (per pound, less tax) sold for 27 cents in 1895, 33 cents in 1902, and 30 cents in 1907; smoking tobacco sold for 25 cents (per pound, less tax) in 1895, 26.7 cents in 1902, and 30.1 cents in 1907; plug sold for 15.5 cents (per pound, less tax) in 1895, 27.7 cents in 1902, and 30.4 cents in 1907; and little cigars sold for $4.60 (per thousand, less tax) in 1895, $4.37 in 1902, and $3.60 in 1907.[31] In the same period (1895-1907), the price of leaf tobacco per pound rose from 6 to 10.5 cents.[32] Thus, the pricing record indicated above on tobacco products was accomplished during a period when the price of the es-

[25] Jacobstein, "The Tobacco Industry in the United States," p. 126.
[26] *Ibid.*, pp. 125-126.
[27] *Ibid.*, p. 127.
[28] *Ibid.*, p. 128.
[29] *Ibid.*, p. 123.
[30] Tennant, *The American Cigarette Industry*, pp. 49-57.
[31] *U.S. Research and Brief*, 221 U.S. 106, Appendix "P," p. 329.
[32] Tennant, *The American Cigarette Industry*, p. 53.

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sential raw material had increased about 40 per cent.

Predatory practices are expensive, and it is not usually profitable to attempt to eliminate competition through this technique. This would be especially true in an industry where entry was relatively easy, where nonprice competitive factors were crucial, and where there were hundreds – even thousands – of competitive sellers already in existence. Such a *general* policy on the part of American Tobacco would have been foolish and foolhardy, and no such *general* policy was attempted. Although there may have been some isolated instances where price-cutting played an important part in merger or consolidation,[33] such practices were not the rule.

[33] The "plug war" (1894-1898) is probably the most famous example. During this "war," American sold plug at a loss until the large independent plug manufacturers defaulted. The "independents" came together to form the Continental Tobacco Company whose president was James B. Duke.

But some additional facts complicate an easy interpretation of this "war." In the first place, it was not established that American *started* the "plug war." Secondly, the price reductions were limited to only a few "fighting brands"; while American Tobacco lost money on plug, all the large independent plug manufacturers *continued to earn a profit.* Lastly, plug sales increased from 9 million pounds in 1894 to 38 million pounds in 1897. See Tennant, *The American Cigarette Industry*, p. 29.

The Lower Court Decision

The comments concerning American Tobacco's efficiency and price policy related above are certainly not original. Amazingly, the same sort of comments can be discovered in a reading of the Circuit Court decision (*U.S.* v. *American Tobacco,* 164 Federal Reporter, 1908) that first determined that American Tobacco had violated the Sherman Act. Although Circuit Judge Lacombe found American guilty of violating the Sherman Act, he stated, with respect to the *economic* issues involved that:

"The record in this case does *not* indicate that there has been any increase in the price of tobacco products to the consumer. There is an *absence* of persuasive evidence that by unfair competition or improper practices independent dealers have been dragooned into giving up their individual enterprises and selling out to the principal defendant. . . . During the existence of the American Tobacco Company new enterprises have been started, some with small capital, in competition with it, *and have thriven.* The price of leaf tobacco – the raw material – except for one brief period of abnormal conditions, has steadily *increased,* until it has nearly doubled, while at the same time 150,000 additional acres have been devoted to tobacco crops and the consumption of leaf has greatly increased. Through the enterprise of defendant and at a large expense, new markets for Amer-

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ican tobacco have been opened or developed in India, China, and elsewhere." (Italics added.)[34]

Circuit Court Judge Noyes, while concurring with Judge Lacombe in American Tobacco's guilt, also appeared to concur in the *economic* issues involved.

"Insofar as combinations result from the operation of economic principles, it may be doubtful whether they should be stayed at all by legislation. . . . It may be that the present anti-trust statute should be amended and made applicable only to those combinations which unreasonably restrain trade – that it should draw a line between those combinations which work for good and those which work for evil. But these are all legislative, and not judicial, questions."[35]

It was Judge Ward (dissenting), however, who crystallized the economic issues in the case.

"So far as the volume of trade in tobacco is concerned, the proofs show that it has *enormously increased* from the raw material to the manufactured product since the combinations, and, so far as the price of the product is concerned, that it has *not been increased* to the consumer and has varied *only* as the price of the raw material of leaf tobacco has varied.

The purpose of the combination was not to restrain trade or present competition . . . but, by intelligent economies, to increase the volume and the profits of the business in which the parties engaged." (Italics added.)[36]

"A perusal of the record satisfied me that their [American Tobacco] purpose and conduct were not illegal or oppressive, but that they strove, as every businessman strives, to increase their business, and that their great success is a natural growth resulting from industry, intelligence, and economy, doubtless largely helped by the volume of business done and the great capital at command."[37]

Yet, although three of the four Circuit Court judges admitted that there *was* evidence to indicate that American Tobacco *was* efficient, had *not* raised prices, *had* expanded outputs, had *not* depressed leaf prices, and had *not* "dragooned" competitors, Judge Coxe joined Judges Lacombe and Noyes in concurring that American Tobacco violated the Sherman Act! Clearly the conduct and economic performance of the defendant had nothing to do with the decision. American Tobacco was convicted *in spite of* its economic record because its mergers and acquisitions inherently restrained trade between the now merged or acquired firms, and *that* violated the Sherman Act as interpreted in 1908. Judge Lacombe made the majority's position explicit:

[34] 164. Fed. Reporter, pp. 702-703.
[35] *Ibid.*, p. 712.
[36] *Ibid.*, p. 726.
[37] *Ibid.*, p. 728.

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". . . every aggregation of individuals or corporations, formerly independent, *immediately upon its formation terminated an existing competition*, whether or not some other competition may subsequently arise. The act as above construed Sherman Act prohibits *every* contract or combination in restraint of competition. Size is not made the test: two individuals who have been driving rival express wagons between villages in two contiguous states, who enter into a combination to join forces and operate a single line, restrain an existing competition . . . .

"Accepting *this* construction of the statute, as it would seem this Court must accept it, there can be little doubt that it has been violated in this case . . . the present American Tobacco Company was formed by subsequent merger of the original company with the Continental Tobacco Company and the Consolidated Tobacco Company, and when *that merger* became complete two of its existing competitors in the tobacco business were eliminated."[38] (Italics added.)

It was irrelevant to inquire into the benefits of the combination, argued Judge Lacombe. It was "not material" to consider subsequent business methods or the effect of the combination on production or prices. The fact that American Tobacco had not abused competitors, tobacco growers, or consumers was "immaterial." The only issue that was material was that:

"Each one of these purchases of existing concerns complained of in the petition was a contract and combination in restraint of competition existing *when it was entered into* and *that* is sufficient to bring it within the ban of this drastic statute."[39] (Italics added.)

And, thus, the three judges (with Judge Ward dissenting) ruled that the American Tobacco Company must be divested.

The Supreme Court Decision of 1911[40]

The Supreme Court decision handed down in the American Tobacco case by Justice White in 1911 is a virtual replay of the *Standard Oil* decision of the same year. Again, White suggests that a "rule of reason" be applied to the undisputed facts concerning the activities of the American Tobacco Company.[41] But, again, that "rule of reason" does *not* include a careful economic analysis of the Tobacco Trust's conduct-performance in the period under consideration. All the Supreme Court did (again) was to detail the history of the tobacco industry between 1890 and 1907,[42] and infer

[38] *Ibid.*, p. 702.

[39] *Ibid.*, p. 703.

[40] *United States* v. *American Tobacco Company* 221 U.S. 105.

[41] *Ibid.*, pp. 155, 178-179.

[42] *Ibid.*, pp. 155-175.

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from these undisputed facts that the intent and "wrongful purpose" of American Tobacco must have been to acquire a monopolistic position in the tobacco industry.[43] This conclusion was "inevitable," said White,[44] and could be "overwhelmingly established" by reference to the following facts: (a) the original combination of cigarette firms in 1890 was "impelled" by a trade war; (b) an "intention existed to use the power of the combination as a vantage ground to further monopolize the trade in tobacco," and the power *was* used, i.e., the "plug and snuff wars"; (c) the Trust attempted to conceal the extent of its "control" with secret agreements and bogus independents; (d) American Tobacco's policy of vertical integration served as a "barrier to the entry of others into the tobacco trade"; (e) American Tobacco expended millions of dollars to purchase plants, "not for the purpose of utilizing them, but in order to close them up and render them useless for the purposes of trade"; (f) there were some agreements not to compete between American and some formerly independent tobacco manufacturers.[45] With these "facts" in mind, the conclusion was inevitable:

> "Indeed, when the results of the undisputed proof which we have stated are fully apprehended, and the wrongful acts which they exhibit are considered, there comes *inevitably to the mind the conviction that it was the danger which it was deemed would arise to individual liberty and the public well-being from acts like those which this record exhibits*, which led the legislative mind to conceive and enact the anti-trust act. . . ." (Italics added.)[46]

But, as has been demonstrated in our review of the American Tobacco Company, whether such "acts" are a danger to "individual liberty" and the "public well-being" *is* a matter of dispute. To *inevitably* infer, for example, that purchasing plants and closing them down endangers liberty or the public well-being, *without an economic analysis of the costs and benefits of such an action*, is an unwarranted and faulty inference. If the agreements to secure these "plants" were voluntarily arrived at, then "individual liberty" was *not* endangered; if the plants closed down by American Tobacco were inefficient, and if the products continued to be produced at larger, more efficient factories, then the danger to the public well-being is *not* obvious. The same kind of questions can be raised about the rest of the "undisputed

[43] *Ibid.*, pp. 181-184.
[44] *Ibid.*, p. 182.
[45] *Ibid.*, pp. 182-183.
[46] *Ibid.*, p. 183.

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facts" and "inevitable inferences" in this case.

Conclusion

Unfortunately, the Supreme Court in the *American Tobacco* case did not choose to analyze the economic issues involved, nor choose to use the rule of reason as an *economic standard* to see whether the public well-being had been harmed. Such an analysis, if performed, would have involved a discussion of prices, outputs, economies associated with merger, growth of competitors (especially in cigarette manufacture), and a host of related issues; no such discussion is discovered in this case. American Tobacco was convicted of violating the Sherman Act because its acts, contracts, agreements, and combinations were of such "an *unusual* and *wrongful* character as to bring them within the prohibitions of the law."[47] The Circuit Court was directed to devise a plan of dissolving the illegal combination, and "recreating" a new market structure that would not violate the antitrust law.

The fundamental purpose of this study has been to demonstrate that the famous *American Tobacco* decision of 1911 did not turn on any sort of sophisticated economic analysis of actual market conduct or performance. An even wider purpose, however, has been to suggest by example that structural changes *a priori* prove precious little about consumer welfare and that it is not always safe to assume that "bad" structure leads inevitably to "bad" conduct or "bad" performance. Since the present trend in antitrust thinking appears to be moving toward an almost complete reliance on structural factors,[48] the implicit danger of such an approach should be obvious.

[47] *Ibid.*, p. 181. (Italics added.)

[48] Samuel A. Smith, "Antitrust and the Monopoly Problem: Towards a more Relevant Legal Analysis," *Antitrust Law & Economics Review*, Volume 2, No. 4 (Summer, 1969), pp. 19-58.

IDEAS ON LIBERTY

Obstacle to Progress

THERE IS A NATURAL OBSTACLE to progress in abstract thought, which has often delayed rational inquiry; an erroneous concept or theory may be expressed in terms which embody the error, so that thinking is blocked until the misleading words are discarded from the given context.

ISABEL PATTERSON, *The God of the Machine*

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So Who Are You, Young Man?

Rebellious Youth with anger burdened,
Cease awhile from protestations.
Halt dissents and demonstrations.
Stop and think.

Ponder on the fact that you,
Like all your mentors, first to last,
Are but an echo of the past
And little more.

A heritage from Fate, you are
A complex of regeneration,
The old made new through reclamation.
The fruit of salvage.

Your growing bones, and flesh, and brain
Were all controlled by DNA
With guiding genes that got away
From predecessors.

All you've learned was known before you.
All you know is what was taught you
By your elders who have brought you
Where you are.

To the stern world of Experience
Where convictions are diluted
And raw knowledge is transmuted
Into wisdom.

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Where absolutes are stuff for dreams
And almost never are attained
While worthy ends are quickest gained
Through compromise.

All you've angrily condemned
All the grievances bewailed
Have persistently prevailed
Throughout the ages.

The System or Establishment,
To you, a faceless monster who
Forever stalls long over-due
Utopia.

Assaying the Establishment,
The seeker for the truth will find
A fair cross-section of Mankind
Like you and me.

Just Man with all his weaknesses,
His greed, his fears, his self-concern,
His strivings, with good deeds, to earn
Some commendation.

So, Rebel Youth, when you commence
Your crusade for the right and good,
It seems the reformation should
Begin with Man.

So may it be.

JULIAN CHASE

Mr. Chase, in his 93rd year, was for many years vice-president of the Chilton Company and directing editor of its automotive division.

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The Silent Revolution in England

THE MAIN POINT of John W. Osborne's *The Silent Revolution: The Industrial Revolution in England as a Source of Social Change* (Scribner's, $7.95) is that if there hadn't been capitalism, there wouldn't be any funds for modern welfare. In many ways Professor Osborne's useful little book supplements and amplifies the papers read at the Mont Pelerin Society meeting held at Beauvallon in France in 1951, and subsequently published in a volume edited by Professor F. A. Hayek, *Capitalism and the Historians*. With the same attention to detail that was supplied by T. S. Ashton and W. H. Hutt, two of Hayek's contributors, Professor Osborne makes a convincing case that the lot of man in England was considerably improved by the industrial revolution. Unfortunately, the Osborne book doesn't go on to the next question: just how far can the welfare state be pushed without milking the capitalist cow, the source of high modern productivity, to death? After a brave beginning, *The Silent Revolution* trails off; it is not governed by any rigorous economic thinking.

But before Professor Osborne comes to what amounts to a non-conclusion, there is much to support the Mises-Hayek-Ashton contention that our standard his-

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torians of the industrial revolution failed to do their homework. It was Marx's collaborator, Friedrich Engels, who established the stereotype about the idyllic England of pre-capitalist times. Relying on government reports of a highly selective nature, Engels, along with J. L. and Barbara Hammond of *The Town Labourer* fame, contrasted the world of the early factories with the "merry England" of supposed tradition. The only trouble with the contrast is that pre-industrial England supported a small population of eight to ten million mostly at a poor subsistence level. Industrialism enabled the population to quadruple, and it was a more humane and better fed population than the pre-industrial age had ever known.

"Bucolic" England

It was a coarse and brutal England that existed in eighteenth century times. The roads were impassable for much of the year; people were bound by the village horizon. The criminal code was harsh; pickpockets could be punished by execution, and the crowds regarded a hanging as a sporting event. The ordinary Englishman, says Osborne, "was illiterate and uncouth . . . his conduct swayed between extremes of boisterous good nature or sullen violence. . . . Devoid of letters, with his body warped by hunger and illness and his spirit clouded by worry and personal tragedy, this ordinary Englishman was not worse off than his counterparts either in Europe at the time or in Africa or Asia today." The ordinary Englishman was fatalistic about his politics, which gave a conservative tone to public life. In short, the picture of Merry England of the Greenwood was something that existed in Friedrich Engels' imagination; the reality of bucolic England was often the reality of scratching for a dole under the old poor laws. Children starved out of sight in rural hovels; and the pre-industrial towns, lacking gas lighting and a decent water supply, were at least as bad as anything that came with the factory system.

Like T. S. Ashton before him, Professor Osborne blames the crowded conditions of Manchester not on "capitalist greed" but on the Napoleonic wars. For a full generation very little housing was built: wartime interest rates were too high, window space and bricks and tiles were heavily taxed, iron had to be used for cannon instead of pipe, and the war inflation had made the purchase of oak and fir prohibitive. Yet even the crowded warrens of Manchester were preferable to life in the countryside;

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if they hadn't been, people wouldn't have moved to take advantage of factory wages.

Enter: Industrial Capitalism

The great textile manufacturing inventions of Arkwright, Crompton, Cartwright, Kay, and Hargreaves, supporting each other as spinning caught up with weaving, combined with the Watt steam engine to give Britain a jump on the outer world. With affluence a possibility, people got the idea that their troubles could be ameliorated. This, says Professor Osborne, gave the reformers their cue. The new Factory Acts, the child labor laws, the extension of the franchise, the growth of schools, the establishment of hospitals, and the very rise of Fabian socialism itself, were all possible because the wealth was there to pay the bills.

Professor Osborne's idea is that the moral climate changed from the coarseness and drunkenness of eighteenth century society to the regularity and prudery of Victorianism largely because industrialism and its superstructure of modern business demanded responsibility. The old spasmodic rhythm of working with the seasons gave way to a regularly spaced rhythm of working with the clock. Disciplined work was followed by disciplined sport. The new capitalistic toll roads broke down the parochial England of the village, and the railroads, after the coaching age of Charles Dickens, completed the job.

Robert Owen — Capitalist Turned Reformer

If industrial capitalism was needed to support a new humanitarian England, one would think that Professor Osborne would be at pains to warn the socialists against putting too heavy a charge on it. After all, there must be profits and a continued spirit of innovation to sustain the taxation that pays for welfare. Professor Osborne, however, doesn't seem particularly concerned with this problem. He misses the true significance of Robert Owen, the early nineteenth century capitalist of the New Lanark mills. Long before Henry Ford, Owen decided that a healthy, educated, and reasonably well-paid working force would improve both productivity and profits in his factory. And so it proved: Owen, by treating his workers well, became a rich man. Then, in one of the great social non sequiturs of his age, he turned collectivist reformer. His attempt to found a socialist community in America came to grief, and his pompous politicking in Britain got him nowhere. If he had spent his energies on converting other

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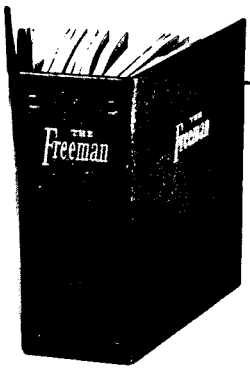
manufacturers to a Henry Ford view of economics, he would have done much more for England.

One wishes that Professor Osborne had made something of the regression in modern Britain that has accompanied the rejection of nineteenth century capitalist values. He says that "between 1700 and 1825, no less than one hundred and fifty-four hospitals and dispensaries were founded in the British Isles." Under the modern British socialized medical schemes, the rate of hospital building has fallen to a whisper. Doesn't this convey something? Industrialism got its start in England, as Professor Osborne points out, because of the prior existence of English freedoms. The state hadn't become absolute as it had in France. But now the state grows. I wish Professor Osborne had drawn the proper conclusion.



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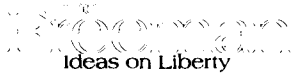

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